

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CASE NO.13 Civ 06437 (AJN)

AMERICAN FEDERATED TITLE  
CORPORATION, a Florida  
corporation,

Plaintiff,

v.

GFI MANAGEMENT SERVICES,  
INC., a New York corporation,  
ALLEN I. GROSS, an individual,  
and EDITH GROSS, an individual,

Defendants.  
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**AMENDED COMPLAINT**

Plaintiff, AMERICAN FEDERATED TITLE CORPORATION (“AFTC”), by and through its undersigned counsel, sues Defendants, GFI MANAGEMENT SERVICES, INC. (“GFI Management”), ALLEN I. GROSS (“Mr. Gross”), and EDITH GROSS (“Mrs. Gross”)(collectively as the “Defendants”), and states as follows:

**Nature of the Action**

1. This is an action for post-judgment relief to “pierce the corporate veil” and for fraudulent conveyances under New York Debtor and Creditor Law §§273, 273-a and 276, to recover monetary damages against Defendants, all of whom have manipulated the assets of their wholly-owned and affiliated entities to perpetrate a substantial injustice upon AFTC.

2. Defendants knowingly and intentionally abused the corporate form of their wholly-owned entities by treating the entities as mere alter egos and leaving those entities

without assets, before during and after the entities were indebted to AFTC for millions of dollars, including but not limited to, a stipulated money judgment totaling \$7,500,000.00.

3. After two unsuccessful efforts to avoid liability to Plaintiff in the Bankruptcy Court of the United States District Court for the Southern District of New York, which also included one of the largest discovery sanctions ever issued in that Court, and after summary judgment was granted against them on every issue, claim and defense, the Defendants caused their A & M Entities and their GFI Acquisition entity to dismiss their bankruptcies and agree to a judgment in the amount of \$7,500,00.00.

4. Defendants intentionally and methodically stripped these entities of their assets by disregarding all corporate formalities and manipulating the revenue and expenses of these entities being controlled and dominated by Mr. and Mrs. Gross for the purpose of defrauding creditors, and in particular, to avoid collection by AFTC. The systematic creation and domination of these entities and the manipulation of their assets represents the Defendants' abuse of the privilege of doing business in the corporate form to further their personal interests and cause harm to AFTC, a known creditor.

### **The Parties**

5. AFTC is Florida corporation having its principal place of business in the state of Florida. AFTC acts as trustee for Trust #9651, Trust #61530, Land Trust #0751, Land Trust #EO-479, Land Trust #9548-sha and Land Trust #1045-sil.

6. At all times material hereto, GFI Management was a New York corporation having its principal place of business in the state of New York.

7. At all times material hereto, Mr. Gross was an individual with a permanent residence in the state of New York.

8. At all times material hereto, Mrs. Gross was an individual with a permanent residence in the state of New York.

9. Mr. and Mrs. Gross are husband and wife.

### **Jurisdiction and Venue**

10. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1332 because this action is between citizens of different states and the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

11. Pursuant to 28 U.S.C. §1391(b), venue lies in the Southern District of New York because each of the Defendants resides within the judicial district of the Court and because a substantial part of the events giving rise to the claims asserted herein occurred within the judicial district of the Court.

### **General Allegations**

### **Background Facts**

12. At all times material hereto, AFTC was a trustee of multiple land trusts holding real property in Florida. Each of the four properties consisted of residential, multi-unit apartment complexes (the “Properties”), located in three separate Florida counties, as follows:

- A. Trust #61530--Carib Villas Apartments, located in Miami-Dade County, Florida;
- B. Trust #9651-- Cutlerwood Apartments, located in Miami-Dade County, Florida;
- C. Land Trust #0751 (Parcel 1) and Land Trust #EO-479 (Parcel 2)-- Palm Gardens Apartments, located in Broward County, Florida;
- D. Land Trust #9548-sha (Parcel A) and Land Trust #1045-sil (Parcels B and C)-- Shady Oaks Apartments located in Pinellas County, Florida.

13. Beginning in the Summer of 2000, each of the Properties was leased to Mr. and Mrs. Gross through their various shell entities known as A & M Florida Properties, LLC (“A & M”)(leased the properties described in paragraphs 12(A) and 12(B)), A & M Florida Properties II, LLC (“A & M II”)(leased the property described in paragraph 12(C)), and A & M Florida Properties III, LLC (“A & M III”)(leased the property described in paragraph 12(D)). A & M, A & M II and A & M III are hereinafter collectively referred to as the “A & M Entities.”

14. The A & M Entities were created for the sole purpose of being the lessees under the long-term leases with AFTC. The A & M Entities have never been a party to any business dealings that were not associated to their leases with AFTC.

15. At the time they created the A & M Entities, Mr. and Mrs. Gross had used the same system of utilizing single-purpose, no-asset corporate entities to lease or own real property throughout the country. At her deposition taken during the Bankruptcy Actions, as defined below in Paragraph 29 below, Judith Crook, GFI Management’s former controller testified that Mr. and Mrs. Gross had between 50 and 60 properties under their control at one time. Attached hereto and incorporated by reference as Exhibit “1” is a true and correct copy of Ms. Crook’s deposition transcript.

16. At the time A & M and A & M II were created, Mrs. Gross was the sole owner of these entities. Subsequent to their creation, Mr. Gross obtained a 1% ownership interest in both A & M and A & M II. At the time A & M III was created, Mr. Gross was the sole owner and member of said entity. Upon information and belief, subsequent to its creation, Mrs. Gross obtained a 1% ownership interest in A & M III. No person or entity other than Mr. and Mrs. Gross has ever held an ownership interest in the A & M Entities.

17. As part of the lease agreements with AFTC, the A & M Entities were required to pay an aggregated deposit of \$2,600,000.00 to secure their performance under the ground leases.

18. Since the A & M Entities were mere alter egos of Mr. and Mrs. Gross, Mr. and Mrs. Gross contributed their own personal funds to pay the security deposits. The payment by Mr. and Mrs. Gross was not documented through a corporate ratification by the A & M Entities, a loan agreement or any other formal corporate acknowledgement to characterize the nature of the payment. Attached hereto and incorporated by reference as Exhibit “2” is the transcript of the deposition given by Mr. Gross filed in the Bankruptcy Actions (as defined in Paragraph 29, below). Attached hereto and incorporated by reference as Exhibit “3” is the transcript of the deposition given by Mrs. Gross in the Bankruptcy Actions (as defined in Paragraph 29, below).

19. After each of the ground leases were executed, the Defendants took control of the Properties through GFI Management. Under this entirely un-documented, “insider” arrangement (i.e. not an “arms-length” negotiated agreement), GFI Management operated every aspect of the A & M Entities’ existence, including all of the administrative services, all accounting, all bookkeeping, all record keeping, all payroll and all staffing. GFI Management also obtained insurance, purchased supplies, managed tenant accounts and advertised for the Properties.

20. While Defendants leased the Properties, the Properties each generated millions of dollars in annual revenue. Because GFI Management operated every facet of the A & M Entities’ existence, the A & M Entities had no independent identity. This allowed Defendants to control all of the revenue and freely move funds wherever they wanted between the Entities.

21. Approximately seven (7) years after the first of the ground leases was executed, Mr. Gross expressed to AFTC that he wanted to purchase all four of the Properties.

22. In April 2007, Mr. Gross created GFI Acquisition, LLC (“GFI Acquisition”), for the purpose of acting as the entity to ultimately purchase the Properties from AFTC. At all times material hereto, Mr. Gross was the sole owner of GFI Acquisition, which was entirely asset-less when it was formed.

23. On July 3, 2007, AFTC entered into a Purchase and Sale Agreement with GFI Acquisition (the “PSA”), wherein AFTC agreed to sell the Properties to GFI Acquisition for the sum of \$41,457,647.46.

24. As part of the PSA, Mr. Gross asked for and received an adjournment of the rent owed by the A&M Entities to AFTC, with such rents being added to the purchase price under the PSA. Accordingly, Defendants began collecting all sub-tenant rents without the obligation to pay rent to AFTC pending the closing.

25. Unsuspecting of Mr. Gross’ bad faith, at the time, AFTC agreed to Defendants’ request to delay closing, all while the Defendants continued collecting sub-tenant rent and moving those revenues away from the A & M Entities, on the one hand, and secretly trying to sell the Properties to other potential buyers on the other hand.

26. In due course, GFI Acquisition, acting through the Defendants, failed to attend the closing, failed to pay the agreed upon deposits and failed to prepare the closing documents, all as required by the PSA.

27. In order to perpetuate its scheme to continue to collect the sub-tenant rent without the obligation to pay rent to Plaintiff, the Defendants caused GFI Acquisition and the A&M Entities to sue AFTC in the Circuit Court in and for Miami-Dade County, Florida.

28. AFTC challenged the lawsuit as a “sham” and sought an emergency evidentiary hearing in the Florida Court.<sup>1</sup>

29. After the Defendants lawsuit was exposed as a “sham”, the Defendants caused A & M and A & M II<sup>2</sup> to separately file voluntary Chapter 11 petitions (the “Bankruptcy Actions”) in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”), staged several months apart to draw out Defendants’ ability to line their pockets with the sub-tenant rents while not paying rent to AFTC. All of the claims and counterclaims asserted in the Florida case were subsequently transferred to the Bankruptcy Court.

30. AFTC successfully obtained summary judgment on the claims asserted by GFI Acquisition, ultimately resulting in a dismissal of the action initiated by GFI Acquisition.

31. In addition to defending GFI Acquisition’s claim, AFTC asserted affirmative claims against the A & M Entities to recover unpaid rents owed under the ground leases and a claim against GFI Acquisition for breaching the PSA. While litigating AFTC’s claims, on or about October 20, 2010, AFTC, GFI Acquisition and the A & M Entities entered into a Settlement Stipulation in the Bankruptcy Actions (“Settlement Stipulation”) to resolve AFTC’s affirmative claims against the A & M Entities and GFI Acquisition. Attached hereto and incorporated by reference as Exhibit “4” is a true and correct copy of the Settlement Stipulation.

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<sup>1</sup> RULE 1.150, FLORIDA RULES OF CIVIL PROCEDURE. -- SHAM PLEADINGS

(a) Motion to Strike. If a party deems any pleading or part thereof filed by another party to be a sham, that party may move to strike the pleading or part thereof before the cause is set for trial and the court shall hear the motion, taking evidence of the respective parties, and if the motion is sustained, the pleading to which the motion is directed shall be stricken. Default and summary judgment on the merits may be entered in the discretion of the court or the court may permit additional pleadings to be filed for good cause shown.

<sup>2</sup> A & M III did not file for bankruptcy, but the claims it asserted in the Florida Case were transferred to the Bankruptcy Court and consolidated with the Bankruptcy Actions by A & M and A & M II.

32. The Settlement Stipulation constituted AFTC's acceptance of new contractual obligations by the A & M Entities and GFI Acquisition, separate and distinct from the ground leases and the PSA.

33. Pursuant to the terms of the Settlement Stipulation, on October 28, 2010, the Bankruptcy Court entered an Order and Judgment in favor of AFTC against GFI Acquisition and the A & M Entities (the "Final Judgment"). Attached hereto and incorporated by references as Exhibit "5" is a true and correct copy of the Final Judgment.

34. Under the Final Judgment, AFTC is entitled to \$7,000,000.00 from the A & M Entities, jointly and severally. Under the Final Judgment, AFTC is entitled to \$500,000.00 from GFI Acquisition.

35. At the time AFTC entered into the Settlement Stipulation, AFTC did not know that the Defendants had never treated the A & M Entities or GFI Acquisition as legitimate businesses and instead abused those entities to obtain the benefits of the corporate shield while defrauding known creditors. Nor was AFTC aware that Defendants systematically transferred the assets of the A & M Entities and GFI Acquisition away from those entities in order to hinder, delay and defraud AFTC of its ability to collect on the Final Judgment.

**AFTC's Efforts to Enforce the Final Judgment and Discovery of Corporate Abuses**

36. Mr. and Mrs. Gross, through GFI Management and the other Operating Entities, use these single-purpose entities as a tool to turn the privilege of doing business in the corporate form into a weapon to actively defraud creditors, including AFTC, by ignoring the independent nature of these entities, comingling their personal funds, freely moving assets in to these entities at their whim and then fraudulently conveying assets away from these entities when they incur

financial obligations to third parties like AFTC and undertake this conduct through their disregard of all corporate formalities.

37. On or about August 3, 2011, AFTC served the A & M Entities and GFI Acquisition with a Restraining Notice, Information Subpoenas and a Request for Production.

38. On or about May 2, 2012, AFTC instituted a proceeding in the Supreme Court of the State of New York (Index No. 152378/2012), seeking post-judgment discovery from the A & M Entities and GFI Acquisition under New York Civil Practice Law and Rule §5222 (the “New York Discovery Proceeding”).

39. The A & M Entities and GFI Acquisition refused to provide the significant majority of the post-judgment documents sought by AFTC. After the Supreme Court granted AFTC’s Motion for Contempt and Motion to Compel, in its entirety, the A & M Entities and GFI Acquisitions produced approximately 3,000 pages of documents including tax returns, payroll records and tenant rolls for the Properties.

40. The A & M Entities also produced certain electronically stored information (“ESI”), from GFI Management’s computerized accounting system used to track revenues and expenses for each of the Properties. A & M’s ESI, which is in a form commonly known as “Yardi Reports,” reflects the expenses, revenues, balance statements, income statements and net change figures of the A & M Entities between the 2003 and 2012.

41. On October 30, 2013, AFTC deposed Mr. and Mrs. Gross in the New York Discovery Proceeding. Attached hereto and incorporated by reference as Exhibit “6” is Mr. Gross’ deposition transcript. Attached hereto and incorporated by reference as Exhibit “7” is Mr. Gross’ deposition transcript.

42. From this discovery, AFTC learned for the first time the extent by which the Defendants disregarded corporate formalities, dominated their alter ego entities and manipulated the cash flow and expenses of the A & M Entities to fraudulently transfer assets rendering them uncollectable.

43. Indeed, AFTC also learned how Mr. and Mrs. Gross, through GFI Management, treat their entire network of entities as one giant organization that is nothing more than an extension of their personal business interests.

44. At the top of their corporate network is Mr. and Mrs. Gross' flagship entity, GFI Capital Resources, Inc. ("GFI Resources"). At all times since its inception, GFI Resources was 100% owned by Mr. Gross.

45. Below GFI Resources are multiple sub-entities involved in various aspects of the real estate industry including mortgage brokerage, insurance, property management and development (the "Operating Entities").

46. Below the Operating Entities, Mr. and Mrs. Gross have created hundreds of affiliated single-purpose entities to participate in various aspects of the real estate business.

47. GFI Management is the main Operating Entity used by Mr. and Mrs. Gross to manage and control the various single-purpose entities.

48. To date, AFTC has been unable to identify any recoverable assets of the A & M Entities or GFI Acquisition that are currently still in those entities' possession. As of the date of this Amended Complaint, the Final Judgment remains completely unsatisfied, with no portion of the Final Judgment ever having been paid by the A & M Entities or GFI Acquisition.

**Abuse of the Corporate Form and Domination of the A & M Entities and GFI Acquisition**

49. As set forth herein, the Defendants, individually and through GFI Management, abused the privilege of doing business through the A & M Entities and GFI Acquisition by treating those entities as alter egos, disregarding the corporate form and fraudulently conveying any assets that could be used to satisfy the financial obligations owed under the Final Judgment.

50. Defendants manifested this fraud by making numerous inter-company, undocumented “loans” to move money between entities at their sole discretion, paying affiliated entities without receiving fair consideration and comingling the personal funds of Mr. Gross, Mrs. Gross and Defendants’ other wholly-owned affiliated entities.

51. Defendants intentionally undertook this conduct, including the very use of no-asset entities, for the purpose of maximizing their ability to self-deal while simultaneously defrauding creditors. To that end, Mr. and Mrs. Gross improperly used the corporate form as both a sword and a shield.

52. Piercing the corporate veil and holding the Defendants liable, jointly and severally, for the debt owed to AFTC under the Final Judgment is appropriate based a multitude of factors as set forth herein.

**A. Inadequate Capitalization and Lack of Funding to Meet Financial Obligations**

53. A & M was initially required to pay security deposits totaling \$2,000,000.00, while A & M II and A & M III were required to pay security deposits totaling \$600,000.00. The A & M Entities were also required to pay AFTC an aggregated amount in excess of \$2,000,000.00 for the first year of rent. This base rent amount did not include the hundreds of thousands of dollars that the A& M Entities were also obligated to pay under their respective leases for real estate taxes and insurance.

54. Because they were formed without sufficient capital, the A & M Entities could not meet these financial obligations which lead to immediate “loans” from other affiliates as detailed in Paragraphs 58-75 herein.

55. Upon entering into the PSA less than three (3) months after its creation, GFI Acquisition became contractually obligated under to pay AFTC an amount in excess of \$41,000,000.00 to purchase the Properties.

56. During the Florida Court, Mr. Gross testified that the assets GFI Acquisition relied upon to fulfill its financial obligations under the PSA consisted of his personal monies along with the corporate line of credit held by GFI Resources. Other than Mr. Gross’ personal assets and GFI Resources’ line of credit, Mr. Gross failed to identify any independent assets of GFI Acquisition at the time it entered into the PSA.

57. As such, Mr. and Mrs. Gross considered their personal assets to also be the assets of their wholly-owned entities and freely comingled their personal assets with those of their alter ego entities. Further, Mr. and Mrs. Gross exchanged monies between their entities when Mr. and Mrs. Gross determined such transfers were necessary, and did so without any consideration of corporate independence.

B. Intercompany Transfers Without Consideration and Co-Mingling of Funds

58. The Defendants routinely transferred money between the A & M Entities and other affiliated entities and reflect them as loans on the books and records of the A & M Entities for accounting purposes. Because the “loans” were between wholly-owned, affiliated entities, Defendants could freely move money to avoid collection from creditors such as AFTC without paying attention the formalities expected in such a commercial lending transaction.

59. At various times in 2007, A & M had anywhere between \$28,000.00 and more than \$1,200,000.00 in outstanding “loans” from GFI Management and the other A & M Entities.

60. Between 2009 and 2010, A & M II reported liabilities on its Federal Income Tax Returns in the form of loans to its affiliates starting at more than \$300,000.00 and decreasing until the loans are shown having a zero balance at the end of 2010.

61. Judith Crook’s testimony in the Bankruptcy Actions outlined the nature of the “loans” as nothing more than a series of transfers, varying in size, between entities. Ms. Crook testified that the transfers were administered by GFI Management informally because all parties involved were within Defendants’ network of companies.

62. Ms. Crook testified that the transfers originated upon a request by an entity, which was not required to be in writing. GFI Management would review and verbally approve the request. GFI Management would then make the wire-transfer from one entity to the other.

63. Ms. Crook also testified that the only documentation of these intercompany transfers would be the wire request that GFI Management’s check signer would sign to authorize the transfer or the account statement reflecting a transfer.

64. Thus, the Defendants treated their entities as nothing more than different accounts between which they could transfer money when it was needed to serve the Defendants’ interests.

65. No agreements or promissory notes were executed by the parties reflecting the amount of any particular “loan”, “loan” terms or repayment schedules.

66. None of the A & M Entities paid interest on any of the “loans.”

67. Defendants’ re-designation of the \$2,600,000.00 in security deposits paid by Mr. and Mrs. Gross on behalf of the A & M Entities under the AFTC leases is an example of Defendants’ comingling the funds of all of their wholly-owned entities.

68. Mr. and Mrs. Gross directed those security deposits, which were being held on account of the A & M Entities' obligations under their leases with AFTC, be transferred to GFI Acquisition to meet GFI Acquisition's obligations under the PSA.

69. The re-designation of the security deposits was not memorialized by a loan agreement or promissory note between the A& M Entities and GFI Acquisition. GFI Acquisition gave no consideration to the A & M Entities for the transfer of the security deposit funds.

70. Mr. Gross subsequently demonstrated his total disregard for any distinction among the corporate finances by submitting a sworn Proof of Claim against A & M's bankruptcy estate to recover \$2,000,000.00 of the security deposit monies by claiming that those funds were owed to him in repayment of a loan he made to A & M.

71. There were no agreements or promissory notes between Mr. Gross and A & M memorializing the purported loan. During the Bankruptcy Actions, Mr. Gross again tried to re-characterized the \$2,000,000.00, claiming that the money was a capital contribution, not a loan.

C. Lack of Independent Business Discretion

72. Mr. Gross, who is the President of GFI Resources, testified in the New York Discovery Proceeding that GFI Resources provides services to the Operating Entities, but when asked what kind of services GFI Resources provides, Mr. Gross testified "nothing really."

73. Mr. Gross initially testified in the Florida Court that GFI Resources employs over 1,000 people. He later testified in the New York Discovery Proceeding that as sole owner and President of GFI Resources, he has no idea what these employees do or how those employees are compensated.

74. He further testified that he has no knowledge of how his entities are structured, what ownership interest he and others have in those entities, or generally, why the entities were

formed. For example, Mr. Gross flippantly testified that he formed GFI Resources because it had a nice name.

75. During the New York Discovery Proceeding, Mr. Gross admitted that all of his Operating Entities are treated as one company. Mr. Gross testified that Jennifer McLean, the Chief Financial Officer of GB Lodging, LLC and GFI Management, is the person with the most knowledge of how GFI Resources compensates its employees because “she is a person that knows a lot of the inner workings of the company.”

76. When asked which company he was referring to, Mr. Gross answered that he was referring to GFI Mortgage Bankers, GFI Insurance and GFI Development, all of which, upon are among the Operating Entities.

77. Mr. Gross has repeatedly testified that he does anything he wants for his entities from being the chief cook to the bottle washer, but at the same time he denies that he has any knowledge of or control over these entities.

78. In one attempt to deny any authority over GFI Management, Mr. Gross initially testified that he has no role in GFI Management other than to sometimes provide advice. Mr. Gross later testified that he had the authority to fire Mr. Wiser, GFI Management’s Executive Vice President. When asked what role he held with GFI Management that give him that authority, Mr. Gross testified that he could fire Mr. Wiser because he was older than Mr. Wiser or simply because Mr. Wiser reported to Mr. Gross.

79. Mr. Gross also had the authority over GFI Management’s Chief Executive Officer, Fred Mehlman, during the time GFI Management was completely responsible for the operation of the A & M Entities.

80. As part of A & M's voluntary Chapter 11 Bankruptcy petition, Mr. Mehlman was the representative of A & M tasked with submitting an affidavit attesting to the basis for A & M's bankruptcy. In addition, Mr. Mehlman executed the Limited Liability Company Resolution authorizing A & M's filing of the Chapter 11 Bankruptcy. Attached hereto and incorporated by reference as Exhibit "8" is a true and correct copy of the Limited Liability Company Resolution

81. All of these actions taken by Mr. Mehlman on behalf of A & M were performed through his employment with GFI Management, but in his deposition in the Bankruptcy Actions, Mr. Mehlman acknowledged that he reported to Mr. Gross and that decision to terminate Mr. Mehlman was solely within the discretion of Mr. Gross. Attached hereto and incorporated by reference as Exhibit "9" is a true and correct copy of Mr. Mehlman's deposition transcript.

82. As demonstrated by his glib testimony, Mr. Gross disregards any semblance of true corporate form to do whatever he wants with the entities owned by he and Mrs. Gross. This lack of formality allows Mr. Gross, at his sole discretion, to freely pick and choose which entity he works for on a particular day, the job title he gives himself each day, what his job and his responsibilities are each day, what his authority is on any particular day, who is hired and who is fired from these entities.

#### D. Lack of Arm's Length Relationship

83. The Defendants regularly charged the A & M Entities for all costs associated with any service required to operate the Properties. Defendants were solely responsible for selecting third-party vendors, negotiating contracts on behalf of the A & M Entities and enforcing the A & M Entities' contractual rights.

84. This allowed the Defendants to charge the A & M Entities a "management fee" for running the Properties. However, there were no written management agreements

memorializing the amount of GFI Management's fee, the manner in which the fee was calculated, the services included in the fee or any additional expenses that may be charged to the A & M Entities.

85. To maximize their gains and leave the A & M Entities asset-less, the Defendants used their insider status to manipulate the cash flow of the A & M Entities by passing on as many of GFI Management's own operating costs to the A & M Entities and charging those costs as expenses of the A & M Entities.

86. This practice included charging for services that would typically be included in the management fee such as the salaries and benefits for GFI Management's employees, GFI Management's office expenses, travel expenses for GFI Management's employees, and GFI Management's mobile communications costs.

87. Defendants also procured services for the A & M Entities from other insider Operating Entities. Defendants' purchase of insurance for the Properties is an example.

88. The Defendants charged the accounts of the A & M Entities for the cost of property, liability and umbrella policy insurance premiums. However, the Defendants did not shop the open market for insurance or seek to obtain the most cost effective coverage. Instead, the Defendants purchased insurance from an affiliate, GFI Insurance Brokerage, Inc. ("GFI Insurance").

89. Each time the Defendants paid an insurance premium out of the A & M Entities' accounts, GFI Insurance earned a profit and the money would funnel directly back to Mr. and Mrs. Gross. The Defendants continued this pattern of manipulating the A & M Entities' cash flow through the pendency of the Bankruptcy Actions as GFI Insurance was paid tens of thousands of dollars out of the A & M and A & M II debtor-in-possession accounts.

90. All the while, the Defendants controlled the A & M Entities to maximize their own gains leaving the A & M Entities with little to no assets and their creditors with no recourse.

E. Lack of Corporate Formalities

91. At all times material hereto, the A & M Entities and GFI Acquisition did not hold regular corporate meetings, keep corporate minutes, keep records of the decisions of the corporate managers or hold votes to approve or authorize corporate activities.

92. As part of its post-judgment discovery efforts, AFTC requested that the A & M Entities and GFI Acquisition produce documents reflecting their independent governance of the A & M Entities and GFI Acquisitions. Such documents included, but were not limited to, LLC membership agreements, minutes of member meetings and voting records of LLC members.

93. Despite being compelled to produce these documents, the A & M Entities and GFI Acquisition, failed to provide any documents demonstrating the observance of corporate formalities in the operation of the A & M Entities and GFI Acquisition, and the reason they were not produced is because they do not exist.

F. Common Office Space and Shared Facilities

94. Other than limited office space and equipment located at each of the respective Properties, the A & M Entities, GFI Acquisition, GFI Management and the Operating Entities all shared office space and facilities at GFI Resources's headquarters in New York City.

95. In its voluntary Chapter 11 Bankruptcy petition, A & M identified GFI Management's office and address as its debtor's street address in the Court record.

96. In their tax returns, each of the A & M Entities identifies its address as "c/o GFI Management Services, Inc." at the street address of GFI Management's office in New York City.

G. Purpose of Corporate Formation

97. Ms. Crook testified that GFI Acquisition was created solely as a vehicle to enter into the PSA with AFTC.

98. Ms. Crook also testified that GFI Acquisition was never intended to acquire the Properties despite its status as the purchaser under the PSA.

99. During his deposition in the New York Discovery Proceeding, Mr. Gross, who is the sole owner of GFI Acquisition, testified that he did not know either a) why GFI Acquisition was formed; or b) what business GFI Acquisition was in.

H. Overlapping Officers, Directors and Personnel

100. All of the entities connected to the GFI Resources network are linked through Mr. and Mrs. Gross. Although Mr. and Mrs. Gross determine on their own if they hold a corporate title in any of their entities.

101. At all times material hereto, all of the administrative functions of the A & M Entities were provided by employees and personnel of GFI Management, including the bookkeeping, payroll and accounting.

102. GFI Management employees were also used to supervise the day-to day operations of the A & M Entities at the Properties.

103. At all times material hereto, Pamela Albright was an employee of GFI Management and the property supervisor for all of the Properties. Ms. Albright's salary was paid by GFI Management, in part, through the A & M Entities' revenue.

104. When Settlement Stipulation was signed, Frederick Mehlman was an employee and Chief Executive Officer of GFI Management. At the same time, Mr. Mehlman served as the Vice President and Secretary of GFI Acquisition.

**Count I – Alter Ego/Piercing the Corporate Veil**

AFTC repeats and re-alleges paragraphs 1 through 104 as if fully set forth herein.

105. Defendants have completely dominated and controlled the A & M Entities and GFI Acquisition so that these entities are mere alter egos of the Defendants and have no separate existence apart from the Defendants.

106. Defendants used their domination over the A & M Entities and GFI Acquisition to improperly transfer assets away from these entities thereby hindering, delaying and defrauding AFTC of the ability to collect on the Final Judgment that was stipulated and agreed to by the A & M Entities and GFI Acquisition.

107. The lack of any independent corporate governance or separateness among Defendants, the A & M Entities and GFI Acquisition allowed Defendants to perpetrate a wrongful act against AFTC and unjustly deprive AFTC of the ability to enforce its rights under the Final Judgment.

108. AFTC's inability to collect on the stipulated Final Judgment is an inequitable consequence that was directly and proximately caused by the Defendants' unjust conduct and which will continue if the Defendants are not held responsible for the debt owed to AFTC under the Final Judgment.

109. Defendants' wrongful conduct was intended to and did cause substantial harm and injustice to AFTC. Piercing the corporate veil and imposing liability, jointly and severally, on the Defendants is necessary to achieve equity and hold Defendants responsible for the debts of the A & M Entities and GFI Acquisition, specifically with respect to the debt owed to AFTC under the Final Judgment.

WHEREFORE, Plaintiff, American Federal Title Corporation, demands judgment against Defendants, Allen I. Gross, Edith Gross and GFI Management Services, Inc., jointly and severally, in the amount of \$7,500,000.00, along with interest at the statutory rate, the cost of bringing this action, and such further relief as the Court deems fair and just.

**Count II – Fraudulent Conveyances**  
**(Debtor and Creditor Law §273)**

AFTC repeats and realleges paragraphs 1 through 104 as if fully set forth herein.

110. Since their inception, the A & M Entities, through the Defendants have improperly transferred assets of the A & M Entities to the Defendants without any consideration.

111. Among the improper transfers were hundreds of thousands of dollars in monies the Defendants conveyed to GFI Management each year out of the accounts of the A & M Entities which the Defendants disguised as a “management fee.”

112. In the last six (6) years, Defendants caused A & M to convey \$679,559.45 to GFI Management.

113. In the last six (6) years, Defendants caused A & M II to convey \$346,789.47 to GFI Management.

114. In the last six (6) years, Defendants caused A & M III to convey \$142,755.89 to GFI Management.

115. Defendants’ transfer of these amounts to GFI Management out of the A & M Entities’ accounts represented nothing more than Mr. and Mrs. Gross’ conveyance of the revenue generated by one of their wholly-owned entities to another one of their wholly-owned entities.

116. The Defendants’ conveyance of these monies out of the A & M Entities’ accounts and to GFI Management was fraudulent because the transfers were made without fair consideration.

117. At the time of the fraudulent conveyances between the A & M Entities and GFI Management, each of the A & M Entities was indebted to AFTC for the rents owed under the long-term ground leases, which liability was adjudicated by the Bankruptcy Court's entry of the Final Judgment.

118. By systematically transferring monies from the A & M Entities to GFI Management and disguising them as an operating expense, Defendants removed approximately \$1,169,104.81 from the A & M Entities at a time when they were indebted to AFTC.

119. By transferring funds from the entities that were indebted to AFTC, to an entity that was not at the time indebted to AFTC, the Defendants rendered the A & M Entities insolvent and unable to pay its debts, including the amounts owed under the Final Judgment.

120. The Defendants' transfer of the assets of the A & M Entities constitutes a fraud on the creditors of the A & M Entities.

121. The Defendants have acted in conspiracy to defraud the A & M Entities' creditors, particularly AFTC, and to render the Final Judgment uncollectible.

122. As result of the fraudulent conveyances, AFTC has sustained damages in the amounts of the unpaid balance of the Final Judgment against the A & M Entities.

123. AFTC requests that the conveyances made by Defendants to GFI Management out of the accounts of the A & M Entities be set aside. AFTC should be entitled to receive from the Defendants, any economic benefit received by the Defendants as a result of the fraudulent conveyances.

WHEREFORE, Plaintiff, American Federal Title Corporation, demands judgment against Defendants, Allen I. Gross, Edith Gross and GFI Management, Inc., jointly and severally, for

\$1,169,104.81, and awarding reasonable attorney's fees, costs and expenses of this action, along with such further relief that the Court deems fair and just.

**Count III – Fraudulent Conveyances**  
**(Debtor and Creditor Law §273-A)**

AFTC repeats and realleges paragraphs 1 through 104 and 110 through 123 as if fully set forth herein.

124. Some or all of the conveyances by the Defendants to GFI Management out of the accounts of the A & M Entities were made at a time when the A & M Entities were defendants in the Florida Cases.

125. The A & M Entities have failed to pay any portion of the award under the Final Judgment, and upon information and belief, the A & M Entities have insufficient funds to satisfy the Final Judgment.

WHEREFORE, Plaintiff, American Federal Title Corporation, demands judgment against Defendants, Allen I. Gross, Edith Gross and GFI Management, Inc., jointly and severally, for \$1,169,104.81, and awarding reasonable attorney's fees, costs and expenses of this action, along with such further relief that the Court deems fair and just.

**Count IV – Fraudulent Conveyances**  
**(Debtor and Creditor Law §276)**

AFTC repeats and realleges paragraphs 1 through 104 and 110 through 125 as if fully set forth herein.

126. The conveyances made by the Defendants to GFI Management out of the accounts of the A & M Entities were made with intent to hinder, delay and defraud AFTC so that AFTC would be unable to collect on the debt owed to it by the A & M Entities.

127. The transfers by the Defendants out of the accounts of the A & M Entities were made with the intent to hinder, delay and defraud AFTC so that AFTC would be unable to collect on the Final Judgment

128. AFTC has been caused to retain the undersigned counsel to represent it in this matter. Pursuant to New York Debtor Creditor Law § 276-a, Defendants are liable, jointly and severally, to AFTC for the attorney's fees incurred in this action.

WHEREFORE, Plaintiff, American Federal Title Corporation, demands judgment against Defendants, Allen I. Gross, Edith Gross and GFI Management, Inc., jointly and severally, for \$1,169,104.81, and awarding reasonable attorney's fees, costs and expenses of this action, along with such further relief that the Court deems fair and just.

**JURY DEMAND**

The Plaintiff hereby demands a trial by jury on all issues so triable as of right.

Dated this 27th day of December, 2013.

Arnstein & Lehr LLP  
*Attorneys for Plaintiff*  
200 E. Las Olas Blvd., Suite 1700  
Ft. Lauderdale, FL 33301  
Tel.: (954) 713-7600  
Fax: (954) 713-7700  
E-Mail: [ladelson@arnstein.com](mailto:ladelson@arnstein.com)  
[Franklin.zemel@arnstein.com](mailto:Franklin.zemel@arnstein.com)

By: /s/ Lori Adelson  
Lori Adelson, Esq.  
New York Bar No. 3011632  
and  
Franklin L. Zemel, Esq.  
Florida Bar No. 816620  
*Pro Hac Vice*

**CERTIFICATE OF SERVICE**

We hereby certify that on December 27, 2013, we electronically filed the foregoing document with the Clerk of the Court using CM/ECF. We also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

**ARNSTEIN & LEHR LLP**

Attorneys for Plaintiff

American Federated Title Corporation

By: s/Lori Adelson

Franklin L. Zemel

Lori Adelson

200 East Las Olas Blvd., Suite 1700

Fort Lauderdale, FL 33301

(954)713-7600 Fax:(954) 731-7700

[franklin.zemel@arnstein.com](mailto:franklin.zemel@arnstein.com)

[ladelson@arnstein.com](mailto:ladelson@arnstein.com)

**AMERICAN FEDERATED TITLE CORPORATION v GFI MANAGEMENT**

**CASE NO. 13-CIV-06437 (AJN) (AJP)**

**SERVICE LIST**

**STAHL & ZELMANOVITZ**

Attorneys for Defendants

GFI Management Services, Inc., Allen I.

Gross And Edith Gross

747 Third Avenue, Suite 33B

New York, New York 10017

(212) 826- 6422 Fax: (212) 826-6402

[joezelmanovitz@aol.com](mailto:joezelmanovitz@aol.com)

[aneuhaus@szlawllp.com](mailto:aneuhaus@szlawllp.com)

Page 1

Page 3

1  
2 UNITED STATES BANKRUPTCY COURT  
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X  
5 A&M FLORIDA PROPERTIES, LLC,  
6 Debtor.

7 -----X

8  
9 DEPOSITION OF JUDITH CROOK  
10 New York, New York  
11 Wednesday, July 7, 2010  
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15  
16  
17  
18  
19  
20  
21  
22  
23

24 Reported by:  
25 JOAN WARNOCK  
JOB NO. 311707

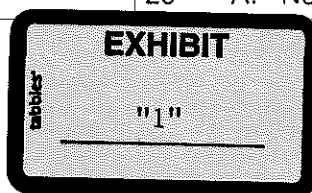
Page 2

Page 4

1  
2  
3 July 7, 2010  
4 11:00 a.m.  
5  
6 Deposition of JUDITH CROOK, held at  
7 the offices of GFI Management Services,  
8 50 Broadway, New York, New York, before  
9 Joan Warnock, a Notary Public of the  
10 State of New York.  
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1  
2 A P P E A R A N C E S:  
3  
4 ARNSTEIN & LEHR, LLP  
5 Attorneys for American Federated Title  
6 Corporation  
7 200 East Las Olas Boulevard  
8 Ft. Lauderdale, Florida 33301  
9 BY: FRANKLIN L. ZEMEL, ESQ.  
10  
11 GOLDBERG WEPRIN FINKEL GOLDSTEIN, LLP  
12 Attorneys for Debtor  
13 1501 Broadway  
14 New York, New York 10036  
15 BY: KEVIN J. NASH, ESQ.  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 J. Crook  
2 JUDITH CROOK, called as a  
3 witness, having been duly sworn  
4 by a Notary Public, was examined  
5 and testified as follows:  
6 COURT REPORTER: Please state your  
7 name and address for the record.  
8 THE WITNESS: Judith Crook,  
9 4 Waterview Lane, Randolph, New Jersey.  
10 EXAMINATION BY  
11 MR. ZEMEL:  
12 Q. Good morning.  
13 A. Hi.  
14 Q. How are you currently employed?  
15 A. By GFI Management Services, Inc.  
16 Q. And how long have you been employed  
17 by GFI Management Services, Inc.?  
18 A. Since November 2005.  
19 Q. And what did you do before that?  
20 A. I worked at a commercial real  
21 estate developer and property manager.  
22 Q. Who was that?  
23 A. SJP properties.  
24 Q. Is that here in New York?  
25 A. New Jersey.



Page 5

1 J. Crook  
 2 Q. Doesn't anybody in this part of the  
 3 country have a real estate company with a  
 4 name? Why is everything initials? Sorry.  
 5 A. Because we're all individuals.  
 6 Q. GFI, SJP. Okay. How long were you  
 7 with SJP in New Jersey?  
 8 A. Five years.  
 9 Q. What were your responsibilities at  
 10 SJP?  
 11 A. I was assistant controller.  
 12 Q. What were your duties as assistant  
 13 controller?  
 14 A. I ran the accounting department.  
 15 We kept the books and records for various  
 16 properties, did budgets.  
 17 Q. What kind of properties?  
 18 A. Office buildings.  
 19 Q. Not residential?  
 20 A. No.  
 21 Q. Approximately how many properties  
 22 did SJP own or manage while you were there?  
 23 A. I'm remembering about twelve. I'm  
 24 not a hundred percent sure. It was always a  
 25 moving target.

Page 6

1 J. Crook  
 2 Q. But approximately a dozen  
 3 buildings?  
 4 A. Yes.  
 5 Q. And where did you work before SJP?  
 6 A. I worked at National Exchange  
 7 Carrier Association.  
 8 Q. What is that?  
 9 A. It's an association of all the  
 10 telephone networks across the country. It  
 11 did the billing. It accounted for the all  
 12 the back-office billing between Sprint and  
 13 AT&T and who paid for the switches in any  
 14 location, you know.  
 15 Q. What did you do for them?  
 16 A. I was the manager of -- what was my  
 17 title. Manager of budgets and accounts  
 18 payable, I think.  
 19 Q. Can you give me the benefit of your  
 20 formal education, please.  
 21 A. I have a civil engineering degree.  
 22 Q. Interesting.  
 23 A. From London University. And I am a  
 24 chartered accountant.  
 25 MR. NASH: You mean that's not a

Page 7

1 J. Crook  
 2 New Jersey accent you have?  
 3 THE WITNESS: Isn't it?  
 4 Q. When did you get your civil  
 5 engineering degree?  
 6 A. That would be telling you how old I  
 7 am.  
 8 Q. No, not necessarily.  
 9 MR. NASH: Well, it would be a  
 10 range.  
 11 A. 1975. I was very young.  
 12 Q. And when did you become a chartered  
 13 accountant?  
 14 A. I became a chartered accountant in  
 15 England in 1978 and then in Canada in 1981.  
 16 Q. So fill in the blanks for me.  
 17 Civil engineering degree, London University,  
 18 but instead you went and became an accountant  
 19 or a chartered accountant.  
 20 A. Yes.  
 21 Q. What did you like about  
 22 engineering?  
 23 A. I liked applied math, so I went  
 24 into engineering. But then I decided -- the  
 25 plan was I would go get my accounting degree

Page 8

1 J. Crook  
 2 and then I would go work for a development  
 3 company where I would have the engineering  
 4 knowledge and of the finance side of it.  
 5 Q. What side of civil engineering did  
 6 you like?  
 7 A. I did structural, bridges, office  
 8 buildings and stuff.  
 9 Q. Interesting. Don't you think that  
 10 would have been more interesting than being a  
 11 controller in a company doing accounts  
 12 payable and budgets? I'm just asking.  
 13 MR. NASH: Maybe, maybe not.  
 14 There's monotony in everything.  
 15 Q. Don't you miss the civil  
 16 engineering?  
 17 A. A little bit. It was a long time  
 18 ago. Back then I think accounting was more  
 19 conducive to, you know, my -- I mean it's  
 20 personal stuff. I don't know why it's  
 21 relevant. But, you know, that was my choice.  
 22 And my choice was it was more flexible as a  
 23 woman who would probably get married and have  
 24 kids. I would have flexibility to work  
 25 part-time, if you really want to know.

Page 9

1 J. Crook  
 2 Q. Okay. I did really want to know.  
 3 MR. NASH: All right.  
 4 Q. Have you applied for --  
 5 MR. NASH: He's trying to be nice.  
 6 Let's hope he's nice the whole time,  
 7 Judith.  
 8 Q. I'm always nice, despite what  
 9 you've heard. Make up your own mind.  
 10 Have you applied for a CPA license  
 11 anywhere in the States?  
 12 A. I sat the exams.  
 13 Q. I'm sorry?  
 14 A. I have taken the CPA exams and  
 15 passed them. I have not applied for a CPA  
 16 license.  
 17 Q. When did you take and pass the  
 18 exams?  
 19 A. 1999.  
 20 Q. Is there a specific reason you  
 21 didn't follow through and obtain the CPA  
 22 licensing?  
 23 A. Yeah. Procrastination probably.  
 24 Q. But there was no legal impediment  
 25 to that?

Page 10

1 J. Crook  
 2 A. No. No.  
 3 Q. Are you still a citizen of the  
 4 U.K.?  
 5 A. I am.  
 6 Q. And your status here?  
 7 A. I am a TN.  
 8 Q. TN?  
 9 A. Um-hmm. TN visa.  
 10 Q. And what does that mean?  
 11 A. Treaty NAFTA. It's called a TN  
 12 visa for Treaty NAFTA, North American Free  
 13 Trade Agreement.  
 14 Q. Okay. I hadn't heard about that  
 15 visa before. What does that mean, Treaty  
 16 NAFTA? Obviously I know what NAFTA is --  
 17 MR. NASH: Franklin --  
 18 MR. ZEMEL: Nash, don't even start  
 19 with me.  
 20 MR. NASH: All right.  
 21 Q. What is it?  
 22 A. It's a work visa. Basically it's a  
 23 temporary work visa. It's given annually, so  
 24 I renew it annually.  
 25 Q. I see. Okay. So it's an annual

Page 11

1 J. Crook  
 2 visa, essentially?  
 3 A. Yeah.  
 4 Q. And you have to be fully employed  
 5 in order to keep that visa?  
 6 A. Well, it's good for a year, and  
 7 then you -- it's good for a year. So if I  
 8 were to renew it, I couldn't renew it without  
 9 a job.  
 10 Q. So you have to be fully employed at  
 11 the time you're renewing?  
 12 A. You have to have an offer of  
 13 employment.  
 14 Q. Or at least an offer of employment?  
 15 A. Yes. Yes.  
 16 Q. Okay. And what is your job title  
 17 at GFI Management Services?  
 18 A. Controller.  
 19 Q. Are there any assistant  
 20 controllers?  
 21 A. No.  
 22 Q. And to whom do you report?  
 23 A. Fred Mehlman.  
 24 Q. Anyone else?  
 25 A. No.

Page 12

1 J. Crook  
 2 Q. Do you have a written employment  
 3 contract?  
 4 A. I have a letter. It's not a formal  
 5 contract, not what I would call a formal  
 6 contract. I got an offer of employment, and  
 7 I accepted.  
 8 Q. Do you serve at the pleasure of GFI  
 9 Management Services?  
 10 MR. NASH: Objection. Do you  
 11 understand the question?  
 12 THE WITNESS: Well, isn't it like  
 13 -- isn't it work at will or whatever it  
 14 is?  
 15 MR. NASH: Yes.  
 16 A. Yes. I think everybody does here.  
 17 Q. So GFI Management Services could  
 18 terminate you at any time; is that correct?  
 19 A. Yes.  
 20 Q. And you could quit at any time; is  
 21 that correct?  
 22 A. Yes.  
 23 Q. Do you report to Mr. Gross, Alan  
 24 Gross?  
 25 A. Not directly.

<p style="text-align: right;">Page 13</p> <p>1 J. Crook</p> <p>2 Q. Do you indirectly report to</p> <p>3 Mr. Gross?</p> <p>4 A. Can you -- I'm not quite sure</p> <p>5 what --</p> <p>6 Q. Well, I asked you did you report to</p> <p>7 Mr. Gross. You said not directly. So --</p> <p>8 A. No. I report to Fred. Do I have</p> <p>9 interaction with Mr. Gross? I do</p> <p>10 occasionally.</p> <p>11 Q. Now, can you tell me what is your</p> <p>12 understanding as to why you're being examined</p> <p>13 today?</p> <p>14 A. Because you want to gather some</p> <p>15 facts about the Carib Villas. That's all I</p> <p>16 know really, that, you know, we have a legal</p> <p>17 battle going on, and I'm here to maybe</p> <p>18 provide information and be asked questions.</p> <p>19 MR. NASH: I just want to note for</p> <p>20 the record, we did have an agreement</p> <p>21 that Judith would speak to Dr. Cornfeld,</p> <p>22 which she has done, in lieu of her</p> <p>23 examination.</p> <p>24 THE WITNESS: Right.</p> <p>25 MR. NASH: And she's been providing</p>	<p style="text-align: right;">Page 15</p> <p>1 J. Crook</p> <p>2 question. I think it was an appropriate</p> <p>3 time to put that on the record. That's</p> <p>4 all.</p> <p>5 MR. ZEMEL: Last question, please.</p> <p>6 (Record read.)</p> <p>7 Q. Now, are you represented by</p> <p>8 Mr. Nash in this examination?</p> <p>9 Ma'am?</p> <p>10 A. I'm not sure what you mean.</p> <p>11 Q. Do you have an understanding</p> <p>12 whether or not Mr. Nash and his law firm are</p> <p>13 currently representing you, Judith Crook, in</p> <p>14 this particular examination?</p> <p>15 A. I don't know.</p> <p>16 Q. Can you tell me what discussions</p> <p>17 have you had with Mr. Nash in preparation for</p> <p>18 this examination?</p> <p>19 A. Well, I wanted to know what it</p> <p>20 would be like. So he, you know, said you're</p> <p>21 going to ask me some background information,</p> <p>22 and I'm going to be asked to give -- maybe</p> <p>23 tell you about, you know, how my department</p> <p>24 works, that it was, you know, nothing to be</p> <p>25 worried about, because, you know, we don't</p>
<p style="text-align: right;">Page 14</p> <p>1 J. Crook</p> <p>2 Dr. Cornfeld information on a -- I'm not</p> <p>3 going to say a regular basis, but when</p> <p>4 he asks for information. I do believe</p> <p>5 they speak on multiple occasions. So,</p> <p>6 in fairness, Franklin, that question,</p> <p>7 she wasn't supposed to be examined. She</p> <p>8 was supposed to give Dr. Cornfeld</p> <p>9 information. But we are here today.</p> <p>10 MR. ZEMEL: Are you finished?</p> <p>11 MR. NASH: Yes.</p> <p>12 MR. ZEMEL: That was never the</p> <p>13 stipulation. The understanding was that</p> <p>14 if Dr. Cornfeld and Ms. Crook could</p> <p>15 speak directly, it was hoped that the</p> <p>16 examination could be either shortened or</p> <p>17 eliminated. But there was never a</p> <p>18 stipulation that one would substitute</p> <p>19 for the other. It was hoped for, but,</p> <p>20 especially in light of events that</p> <p>21 occurred two weeks ago, certainly I'm</p> <p>22 going to have questions. So if you'll</p> <p>23 stop obstructing the deposition, we can</p> <p>24 just move right along.</p> <p>25 MR. NASH: I'm not. You asked that</p>	<p style="text-align: right;">Page 16</p> <p>1 J. Crook</p> <p>2 like being here. I certainly don't like</p> <p>3 being here. So it was -- he just provided</p> <p>4 reassurance that this was, you know, normal</p> <p>5 and nothing to be worried about.</p> <p>6 Q. Did you discuss with him any</p> <p>7 specific issues?</p> <p>8 MR. NASH: I'm going to object.</p> <p>9 I'm going to state why I object. She's</p> <p>10 here as a representative of the debtor</p> <p>11 even though she works for the management</p> <p>12 company as the debtor's agent. So I'm</p> <p>13 going to object as to my discussions</p> <p>14 with Judith on the attorney client</p> <p>15 privilege knowing that she is an agent</p> <p>16 of the debtors, and this is a 2004</p> <p>17 examination.</p> <p>18 MR. ZEMEL: Are you representing</p> <p>19 Ms. Crook in the examination?</p> <p>20 MR. NASH: I am representing the</p> <p>21 debtors. She's a witness as an agent on</p> <p>22 behalf of the debtors. So I am</p> <p>23 representing the debtors' agent for the</p> <p>24 purposes of this examination. If you</p> <p>25 recall, we agreed that the three</p>

Page 17

1 J. Crook  
 2 individuals you listed would be produced  
 3 on behalf of the debtors.  
 4 MR. ZEMEL: Actually, you made me  
 5 subpoena --  
 6 MR. NASH: No, but you never did.  
 7 MR. ZEMEL: Yes, I did.  
 8 MR. NASH: You never did.  
 9 MR. ZEMEL: I did. Mr. Donovan, by  
 10 agreement, accepted service of process.  
 11 MR. NASH: Well, I'm not aware that  
 12 he accepted service of process, but we  
 13 produced her because -- actually, the  
 14 fact of the matter is, Franklin, we  
 15 produced her to Dr. Cornfeld in the  
 16 belief that we could, in your words,  
 17 eliminate any of this deposition.  
 18 MR. ZEMEL: Listen, I'm not here to  
 19 argue with you.  
 20 MR. NASH: Okay. So yes, I am the  
 21 lawyer. I am representing Ms. Crook. I  
 22 am representing the debtors. I don't  
 23 represent GFI Management. She's here as  
 24 an agent of the debtors.  
 25 MR. ZEMEL: Just mark that for a

Page 18

1 J. Crook  
 2 ruling, please.  
 3 Q. Now, last year, as you know, A&M  
 4 Florida Properties filed for bankruptcy here  
 5 in New York, or, as you like to say, or as he  
 6 likes to say, New Yawk (phonetic). You're  
 7 familiar with that bankruptcy?  
 8 MR. NASH: She says it much more  
 9 articulate than I do.  
 10 MR. ZEMEL: She's European. Excuse  
 11 me. British. Sorry.  
 12 Q. Are you familiar with the  
 13 bankruptcy?  
 14 A. Yes.  
 15 Q. Were you involved at all in the  
 16 filing of the various petitions and schedules  
 17 with respect to that bankruptcy?  
 18 A. I assisted in putting the --  
 19 providing the information to go into the  
 20 submission.  
 21 Q. Can you tell me what exactly were  
 22 you asked to do? What tasks were you given  
 23 to perform?  
 24 A. I was asked to go through, you  
 25 know, our general ledger and provide numbers,

Page 19

1 J. Crook  
 2 you know, for the various forms.  
 3 Q. So were you provided the various  
 4 forms?  
 5 A. Yes. I believe so.  
 6 Q. Well, let me see if I can refresh  
 7 your recollection. If you hadn't been  
 8 provided with the various forms, how would  
 9 you have known what information to search  
 10 for?  
 11 A. Yes. So I had the forms. Yes. I  
 12 mean --  
 13 Q. Okay. Were the forms in blank?  
 14 A. Yeah. I think they were blank  
 15 forms, and I just hand-wrote stuff on them.  
 16 Q. Okay. And --  
 17 A. You know, it's nearly a year ago,  
 18 so --  
 19 Q. Of course.  
 20 A. And we have 60 properties. So, you  
 21 know, this is just a small part of my world,  
 22 so you'll have to forgive me if my memory  
 23 isn't as tuned into this as maybe you think  
 24 it might be.  
 25 Q. Understood. Well, look, these are

Page 20

1 J. Crook  
 2 not the trick questions, okay. Don't worry  
 3 about --  
 4 A. Are you going to tell me when the  
 5 trick questions come?  
 6 Q. I will tell you that these are not  
 7 the trick questions, okay. Although you  
 8 have --  
 9 MR. NASH: Okay. Whenever they say  
 10 they're not the trick questions, you've  
 11 got to think -- whenever they say it's  
 12 not about the money, it's about the  
 13 money.  
 14 Q. Well, when you say to me, when you  
 15 have a prefatory sentence to an answer that  
 16 begins with, well, to tell you the truth, I  
 17 don't presume that meant you have been lying  
 18 to me everything up until that point, okay.  
 19 So these are not the trick questions. To  
 20 tell you the truth.  
 21 MR. NASH: No. The question is why  
 22 people say that is because they are  
 23 telling the truth, but they don't know  
 24 if the listener is going to believe  
 25 them. So the thing is to say "to tell

Page 21

1 J. Crook  
 2 you the truth" --  
 3 MR. ZEMEL: Okay. Let's move one.  
 4 MR. NASH: -- to emphasize you  
 5 should believe them.  
 6 MR. ZEMEL: All right.  
 7 Q. You mentioned that GFI Management  
 8 Services is currently managing approximately  
 9 60 properties; is that correct?  
 10 A. Yes. Fifty, 60. It varies.  
 11 Q. But how many of those properties  
 12 under GFI Management are now currently in  
 13 bankruptcy?  
 14 A. Two.  
 15 Q. A&M Florida Properties and A&M  
 16 Florida Properties II?  
 17 A. Correct.  
 18 Q. And have you ever in your career  
 19 been asked to review bankruptcy schedules and  
 20 forms and gather information?  
 21 A. No.  
 22 Q. Was this time the first you've ever  
 23 been involved with a bankruptcy proceeding?  
 24 A. Yes.  
 25 Q. So even though you may have had 50

Page 22

1 J. Crook  
 2 or 60 properties under management, it was the  
 3 very first time you had been asked to gather  
 4 information with respect to a bankruptcy  
 5 filing; is that correct?  
 6 A. Correct.  
 7 Q. And would it be fair to say that  
 8 you understood that the information that you  
 9 were being asked to gather was going to be  
 10 filed in the court? You understood that;  
 11 correct?  
 12 A. Yes.  
 13 Q. And because you knew it was going  
 14 to be filed in court, you certainly knew that  
 15 the bankruptcy court and the judge was going  
 16 to rely on that information; isn't that  
 17 right?  
 18 A. Yes.  
 19 Q. And because you knew that the  
 20 bankruptcy court and the judges were going to  
 21 rely on that, you certainly wanted to make  
 22 sure that all of that information was as  
 23 accurate as possible; isn't that right?  
 24 A. Yes.  
 25 Q. And you understood that Mr. Mehlman

Page 23

1 J. Crook  
 2 was going to be signing his name on those  
 3 petitions and schedules; isn't that right?  
 4 A. I quite honestly -- here we go,  
 5 quite honestly. At the time I didn't know  
 6 who was going to sign them, because I did put  
 7 some numbers together. They were submitted  
 8 to the law firm, who then did the papers, and  
 9 then they came back. And that's when -- I  
 10 didn't know whether it would have been Fred  
 11 Mehlman, whether it would have been our  
 12 general counsel, and I didn't know who was  
 13 going to sign them.  
 14 Q. But you understood when you saw the  
 15 forms, you knew that somebody was going to  
 16 have to sign these various forms and  
 17 schedules; isn't that right?  
 18 MR. NASH: Objection. Answer the  
 19 question to the best that you -- he's  
 20 asking what you knew at the time.  
 21 A. I didn't really think about it.  
 22 This was my first time in a bankruptcy. I  
 23 really didn't -- didn't know the whole -- I  
 24 didn't know the process. You know, it was a  
 25 new experience for me.

Page 24

1 J. Crook  
 2 Q. And so tell me --  
 3 A. And I was not involved in the first  
 4 bankruptcy. I was asked for specific  
 5 information that I gave to somebody, and I  
 6 was not involved in actual filing of things.  
 7 I was a little bit more involved with the  
 8 second one.  
 9 Q. So let me see if I understand. The  
 10 first bankruptcy was Palm Gardens, A&M  
 11 Florida Properties 2; is that correct?  
 12 A. Yes.  
 13 Q. Describe the involvement you had  
 14 with the preparation of the schedules and the  
 15 petition in the Palm Gardens bankruptcy?  
 16 A. I was asked for a balance sheet,  
 17 and I provided from our accounting system a  
 18 balance sheet. And somebody else actually  
 19 handled everything else.  
 20 Q. So to the best of your  
 21 recollection, your only involvement in the  
 22 Palm Gardens filings were you provided a  
 23 balance sheet; is that correct?  
 24 A. Yes.  
 25 Q. And how with respect to the Carib

Page 25

1 J. Crook  
 2 Cutlerwood bankruptcy filings did your tasks  
 3 change?  
 4 A. I actually got the forms this time  
 5 and went through and tried to answer the  
 6 questions as best as I could, interpreting  
 7 what the questions meant, which isn't always  
 8 that clear.  
 9 Q. And if you didn't understand  
 10 something, was there somebody available for  
 11 you to ask?  
 12 A. Our law firm.  
 13 Q. And do you recall ever having any  
 14 questions that went unanswered or unexplained  
 15 by your counsel?  
 16 A. I don't recall.  
 17 Q. Would it be fair to say that when  
 18 you provided the information and the answers  
 19 on these schedules and petitions, that you  
 20 felt comfortable that the information was  
 21 complete and accurate?  
 22 A. Yes.  
 23 Q. And at the time that you did that,  
 24 did you feel that you had an understanding of  
 25 what the questions were asking you? When you

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1 J. Crook  
 2 supplied the information, did you have any  
 3 doubts in your mind as to what information  
 4 was being requested on those schedules and  
 5 petitions?  
 6 A. No. I thought that the answers I  
 7 gave were, you know, reasonable. Some were  
 8 estimates. Accounting has a lot of estimates  
 9 in it. That's the way I would characterize  
 10 accounting.  
 11 Q. Was there a particular reason that  
 12 you're aware of why your involvement in the  
 13 Carib Villas bankruptcy was much more  
 14 heightened than it was during the Palm  
 15 Gardens bankruptcy?  
 16 A. Just a change in people in our  
 17 office.  
 18 Q. Such as?  
 19 A. David Arnow was here and did the --  
 20 basically took charge of the Palm Gardens  
 21 one.  
 22 Q. And David Arnow's title before he  
 23 left was what?  
 24 A. COO.  
 25 Q. COO of what?

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1 J. Crook  
 2 A. GFI Management Services.  
 3 Q. Is there a chief operating officer  
 4 now of GFI Management?  
 5 A. No.  
 6 Q. Has David Arnow's position been  
 7 replaced by anyone?  
 8 A. I would say Fred was kind of his  
 9 replacement, but they were both here for a  
 10 while. So Fred is the CEO. Similar roles.  
 11 It's, you know.  
 12 Q. Were Mr. Arnow's responsibilities  
 13 essentially given to Mr. Mehlman?  
 14 A. I would say so.  
 15 Q. Now, can you tell me prior to the  
 16 time that you were given these forms and you  
 17 began your research to answer the various  
 18 questions, did you meet with anyone to give  
 19 you direction as to what it is you were  
 20 supposed to do?  
 21 A. I don't remember.  
 22 Q. Did Mr. Mehlman ever sit with you  
 23 and give you direction about what your tasks  
 24 were with respect to gathering the  
 25 information to go into these bankruptcy

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1 J. Crook  
 2 schedules and other filings?  
 3 A. I think I would have met with  
 4 Mr. Mehlman and Mr. Zlotnick at that time.  
 5 Q. Are you hypothesizing that you  
 6 would have done that, or do you have a  
 7 recollection of meeting with either one or  
 8 both of them about the bankruptcy schedules?  
 9 By the way, let me just tell you --  
 10 A. I mean I think we talked. We  
 11 talked about them. I don't, you know, I  
 12 don't remember anybody sitting me down and  
 13 say do this, this, this, and this, you know.  
 14 We said we've got to gather this information,  
 15 do what you can. So, you know, it was that  
 16 kind of approach.  
 17 Q. Have you ever been deposed before?  
 18 A. No, I haven't. So, you know, if  
 19 you're trying to direct me in some direction,  
 20 I'm not understanding what you want to get  
 21 out of me, so.  
 22 Q. Let me just tell you that if I ask  
 23 a question and you don't know or you don't  
 24 remember, that's a perfectly valid answer.  
 25 A. Okay.

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1 J. Crook  
 2 Q. As long as it's the truth. Okay.  
 3 So if I ask you a question and you say,  
 4 well --  
 5 A. Okay.  
 6 Q. -- I might have met with --  
 7 A. Okay. I don't remember.  
 8 Q. If the answer is --  
 9 A. I don't remember.  
 10 Q. Okay. I don't need you to make  
 11 things up.  
 12 A. Okay.  
 13 Q. We'll deal with that later. But I  
 14 don't need you to --  
 15 MR. NASH: Franklin, she's a nice  
 16 woman. Please. She's trying to do her  
 17 best. And I appreciate you saying "I  
 18 don't know" or "I don't remember" is a  
 19 valid answer. It is. So --  
 20 MR. ZEMEL: Can we move on?  
 21 MR. NASH: Yes, but, you know, go  
 22 easy, Franklin, please.  
 23 Q. Part of this process is -- because  
 24 I could see you're a bit nervous, is I really  
 25 just want to have a conversation with you.

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1 J. Crook  
 2 And I have to ask questions somewhat artfully  
 3 and formally for various technical reasons.  
 4 But really, I just want to have a  
 5 conversation with you, and I just want to get  
 6 some information, and we can all go on our  
 7 way, okay. Remember, these are not the trick  
 8 questions, okay. So you can relax.  
 9 MR. NASH: When you say that, it's  
 10 not really fair to the witness that you  
 11 said it twice, because she's trying to  
 12 give you forthright answers and so  
 13 forth. So just ask the questions, and  
 14 we'll go forward. And that's all I ask  
 15 you at this point. Just ask the  
 16 questions.  
 17 Q. Now, do you recall Mr. Mehlman  
 18 directing you to gather information for the  
 19 bankruptcy schedules and other filings?  
 20 A. No.  
 21 Q. Now, you mentioned Mr. Zlotnick.  
 22 That would be Andrew Zlotnick?  
 23 A. Correct.  
 24 Q. And he was formerly in-house  
 25 general counsel --

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1 J. Crook  
 2 A. Yes.  
 3 Q. -- to GFI?  
 4 A. Yes.  
 5 Q. And as far as you know, he was  
 6 general counsel to GFI Management Services,  
 7 Inc.?  
 8 A. I'm not sure. I don't know whether  
 9 it was -- I don't know.  
 10 Q. So to be clear, you have no  
 11 specific recollection of actually being  
 12 directed by either of those two gentlemen?  
 13 A. You asked me if I remembered being  
 14 directed by Mr. Mehlman. I feel that I  
 15 recall that I was asked by Mr. Zlotnick.  
 16 Q. So your recollection is that  
 17 Mr. Zlotnick asked you to gather the  
 18 information to go on these schedules?  
 19 A. Yes.  
 20 Q. Now, did you see these bankruptcy  
 21 schedules before they were filed in the  
 22 court?  
 23 A. Yes.  
 24 Q. Did you have a chance to review  
 25 them before they were filed with the court?

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1 J. Crook  
 2 A. Yes.  
 3 Q. Did you review these schedules with  
 4 the completed information with anyone?  
 5 A. No.  
 6 Q. Did you have an assistant or  
 7 someone help you gather this information that  
 8 went on those schedules?  
 9 A. I had some people in my department  
 10 run some reports probably, yes. Some --  
 11 yeah. I don't know specifically who, but.  
 12 Q. But the reports would have been run  
 13 at your direction; is that correct?  
 14 A. Say that again.  
 15 Q. The reports that you just mentioned  
 16 would have been run at your direction; isn't  
 17 that right?  
 18 A. Yes.  
 19 Q. Can you tell me with respect to  
 20 determining what liabilities that A&M Florida  
 21 Properties had at the time, tell me what you  
 22 did to gather that information.  
 23 A. I reviewed our accounting, the  
 24 reports generated by our accounting system.  
 25 Q. Did you exclude any information?

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1 J. Crook  
 2 MR. NASH: Objection. Do you  
 3 understand his question?  
 4 THE WITNESS: Did I exclude any  
 5 information.  
 6 Q. Were there any liabilities which  
 7 A&M Florida Properties owed to anyone which  
 8 were found in your general ledger but were  
 9 not reported on the bankruptcy schedules?  
 10 A. On the initial filing?  
 11 MR. NASH: Well, I'm just going to  
 12 object. When you say the bankruptcy  
 13 schedules, you're aware that we amended  
 14 the schedules?  
 15 MR. ZEMEL: Yes. I'm only talking  
 16 about the original filings.  
 17 MR. NASH: Okay. But I think,  
 18 because there were amendments that have  
 19 been filed, so, you know, I think --  
 20 MR. ZEMEL: I'm well aware.  
 21 MR. NASH: -- you should be clear  
 22 on that.  
 23 Q. At the time that you ran various  
 24 reports or did whatever research was  
 25 necessary in order for you to determine what

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1 J. Crook  
 2 the liabilities were of A&M Florida  
 3 Properties, would it be fair to say that you  
 4 or someone under your direction and control  
 5 generated certain reports from the general  
 6 ledger?  
 7 A. Yes.  
 8 Q. And would it be a true statement  
 9 that the liabilities of A&M Florida  
 10 Properties would be located in the general  
 11 ledger?  
 12 A. Do I have to answer yes or no to  
 13 that?  
 14 Q. No, you don't.  
 15 A. Because there's an accounting  
 16 history that goes along with this particular  
 17 entity.  
 18 Q. Talk to me. Explain it to me.  
 19 Explain to me --  
 20 MR. NASH: If you can't answer yes  
 21 or no, say I can't answer that question  
 22 yes or no, here is my answer.  
 23 A. So I can't answer yes or no, but I  
 24 would like to explain.  
 25 Q. Let me just try to make it simple,

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1 J. Crook  
 2 okay. Certain bankruptcy schedules were  
 3 filed when the bankruptcy was first  
 4 initiated. What I want to know is what did  
 5 you or those under your direct supervision  
 6 and control do to determine that all of the  
 7 liabilities of the debtor were reported on  
 8 the schedules filed with the court? That's  
 9 what I want to know. So I need you to tell  
 10 me what you did to make sure that all of the  
 11 liabilities were properly reported on those  
 12 schedules. Your turn.  
 13 A. I took -- we took the information  
 14 from the general ledger. However, the  
 15 general ledger had information that was put  
 16 on there based on tax returns provided to us  
 17 in 2005. We changed -- and I'm going to  
 18 explain this, because you've got to  
 19 understand the system to understand why I'm  
 20 having a hard time. I feel like I know where  
 21 you're going with the question, and I just  
 22 need to just explain something.  
 23 So we had a different -- B.J.  
 24 Murray, which is an accounting software,  
 25 through 2004. We no longer have that system.

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1 J. Crook  
 2 I don't have access to any of that  
 3 information. We got a new accounting system  
 4 in January 2005. And this was prior to my  
 5 time with GFI. The only things brought into  
 6 the accounting system at that time was all  
 7 the tenant information, the tenant, you know,  
 8 the rent-rolls, etc., the cash balance and  
 9 expense. So since that time we had to  
 10 basically build up the opening balances which  
 11 we took from -- we would take from the tax  
 12 returns, because I didn't have any other  
 13 information. Now --  
 14 Q. Let me just -- I don't want to  
 15 interrupt you, but let me just see if I  
 16 understand where you are now.  
 17 Prior to your employment with GFI  
 18 Management, a new accounting system was put  
 19 into place?  
 20 A. Um-hmm.  
 21 MR. NASH: Not a new accounting  
 22 system. A new software program.  
 23 A. New software, yes.  
 24 Q. I think it's all the same thing,  
 25 but okay. So a new computer system, a new

<p style="text-align: right;">Page 37</p> <p>1 J. Crook</p> <p>2 software program is put into place. What is</p> <p>3 the name of the system?</p> <p>4 A. Yardi.</p> <p>5 Q. Spell it for me.</p> <p>6 A. Y-a-r-d-i, Yardi.</p> <p>7 Q. And I think what you're telling me</p> <p>8 is that the legacy information from the old</p> <p>9 system was --</p> <p>10 A. The old system didn't have a</p> <p>11 balance sheet. Didn't have a balance sheet.</p> <p>12 Q. I see.</p> <p>13 A. So it was basic like cash flows,</p> <p>14 income and cash flow statements. So it</p> <p>15 didn't have a balance sheet. There was no</p> <p>16 assets liabilities on these entities in 2005.</p> <p>17 Q. Is this for all properties?</p> <p>18 A. This was for all properties. So,</p> <p>19 you know, over the years, we have got</p> <p>20 everything in order. And this particular</p> <p>21 entity was a little bit more difficult</p> <p>22 because of the two properties with one</p> <p>23 entity, and we in the end found the only way</p> <p>24 we could do it was to take the tax return and</p> <p>25 work the assets and liabilities from there.</p>	<p style="text-align: right;">Page 39</p> <p>1 J. Crook</p> <p>2 Yardi until the latter end of 2007?</p> <p>3 A. Or 2008. It was probably 2008.</p> <p>4 Q. The latter part of 2008?</p> <p>5 A. Yes.</p> <p>6 Q. And with respect to the tax returns</p> <p>7 that you relied upon, were there any amended</p> <p>8 tax returns that you also relied upon?</p> <p>9 A. No.</p> <p>10 Q. Were you told that you could rely</p> <p>11 on the accuracy of those tax returns in</p> <p>12 inputting that legacy information into Yardi?</p> <p>13 A. No.</p> <p>14 Q. You just assumed it was accurate?</p> <p>15 A. Um-hmm.</p> <p>16 Q. Yes?</p> <p>17 A. Yes.</p> <p>18 Q. Did anybody ever tell you that the</p> <p>19 information on those tax returns were</p> <p>20 inaccurate?</p> <p>21 A. No.</p> <p>22 Q. Is there a particular process for</p> <p>23 intercompany loans between the various</p> <p>24 entities that GFI manages?</p> <p>25 MR. NASH: Do you understand the</p>
<p style="text-align: right;">Page 38</p> <p>1 J. Crook</p> <p>2 So I took -- those were put onto our books.</p> <p>3 We, you know, had some assets, some deposits,</p> <p>4 some liabilities, and equity, and that's</p> <p>5 where the opening position came from.</p> <p>6 Q. So would it be fair to say, then,</p> <p>7 that with respect to this particular debtor,</p> <p>8 then, the legacy information, if you will,</p> <p>9 was derived from the tax returns filed for</p> <p>10 the entity?</p> <p>11 A. Yes.</p> <p>12 Q. And did you do that yourself, or</p> <p>13 did you supervise that being done yourself?</p> <p>14 A. I would say I supervised it being</p> <p>15 done.</p> <p>16 Q. And approximately when would that</p> <p>17 have been done?</p> <p>18 A. That was done for 2008 year end to</p> <p>19 make sure that going into 2008, we had to</p> <p>20 send the information to the accountants for</p> <p>21 the tax returns for '08, that we had the</p> <p>22 information tied to that 2007 tax returns.</p> <p>23 Q. So if I understand what you're</p> <p>24 saying, that this legacy information derived</p> <p>25 from the tax returns was not inputted into</p>	<p style="text-align: right;">Page 40</p> <p>1 J. Crook</p> <p>2 question?</p> <p>3 A. Particular process you mean in</p> <p>4 terms of?</p> <p>5 Q. Documenting it.</p> <p>6 A. Documenting it.</p> <p>7 Q. I'll make it simple for you.</p> <p>8 A. We usually get a request, and if</p> <p>9 it's a wire, we'll get it approved, and we'll</p> <p>10 make a transfer.</p> <p>11 Q. And who would approve those</p> <p>12 intercompany loans?</p> <p>13 A. Typically the COO, CEO. We have</p> <p>14 asset managers who approve loans.</p> <p>15 Q. Now, let me ask you, under the old</p> <p>16 accounting system, if A&amp;M Florida Properties</p> <p>17 had borrowed money from anybody, wouldn't</p> <p>18 that have been still in that -- what was it</p> <p>19 called, B.J.?</p> <p>20 A. B.J. Murray.</p> <p>21 Q. The B.J. Murray system?</p> <p>22 A. I actually got a schedule of loans</p> <p>23 from the accountants to support the tax</p> <p>24 returns, so -- because, as you know, tax</p> <p>25 returns have a balance sheet and a balance</p>

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1 J. Crook  
 2 sheet item, so they gave me a schedule which  
 3 was the starting point.  
 4 Q. And so when you looked at those tax  
 5 returns prior to the filing of this  
 6 particular bankruptcy, did you notice any  
 7 loans from GFI Management Services to A&M  
 8 Florida Properties?  
 9 A. But I wasn't looking at the -- I  
 10 mean the tax returns I looked at were the old  
 11 -- were the earlier tax returns, and from the  
 12 general ledger I had the details of the  
 13 loans.  
 14 Q. But the point is that when you  
 15 looked at those tax returns in 2007 or 2008  
 16 or to input the legacy information into  
 17 Yardi, is it your understanding that all of  
 18 the loans which A&M Florida Properties had  
 19 taken out would have been reflected on those  
 20 tax returns and therefore reflected in Yardi?  
 21 MR. NASH: Objection.  
 22 Q. You have to answer.  
 23 A. The intercompany loans, yes.  
 24 Q. And so can you explain if it's  
 25 possible that there could have been an

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1 J. Crook  
 2 intercompany loan from A&M Florida Properties  
 3 III, let's say, to A&M Florida Properties  
 4 that was not on the tax returns and therefore  
 5 not journaled or entered, if you will, into  
 6 the Yardi system?  
 7 MR. NASH: Objection. Do you have  
 8 a specific transaction you're referring  
 9 to?  
 10 Q. Go ahead. Answer my question,  
 11 please.  
 12 A. I would think not.  
 13 Q. Are you aware of a claim that was  
 14 filed in the bankruptcy by A&M Florida  
 15 Properties III for a loan that it claims that  
 16 it made to A&M Florida Properties?  
 17 A. Yes.  
 18 Q. You are aware that that loan was  
 19 not scheduled or identified on the original  
 20 bankruptcy filings that you oversaw. You  
 21 understand that; correct?  
 22 A. Yes.  
 23 Q. And do you have any understanding  
 24 that in February of this year Alan Gross  
 25 filed a claim against this debtor for

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1 J. Crook  
 2 two million dollars claiming a loan? Are you  
 3 aware of that?  
 4 A. Yes.  
 5 Q. Now, can you explain to me why the  
 6 A&M Florida Properties III loan to A&M  
 7 Florida Properties was not originally  
 8 scheduled by you on the bankruptcy schedules?  
 9 MR. NASH: Objection.  
 10 A. I think that a year later and  
 11 understanding the process a little bit more,  
 12 I was focusing on trade payables, and that  
 13 was, you know, the source of the creditor  
 14 information I put on the initial filing. I  
 15 think I made a -- I just -- I made a mistake  
 16 that I did not include those.  
 17 (Exhibit 1, Letter dated June 25,  
 18 2010, to Franklin Zemel from Kevin Nash  
 19 with schedules, marked for  
 20 identification, as of this date.)  
 21 Q. Let me ask you to look at what I've  
 22 marked as Exhibit 1 to this examination,  
 23 which is Mr. Nash's letter to me dated  
 24 June 25th, 2010, with certain schedules which  
 25 are represented as having been prepared by

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1 J. Crook  
 2 you. Have you seen this letter before?  
 3 A. Yes.  
 4 Q. And you understood that when I was  
 5 here in New York two weeks ago to depose or  
 6 examine Mr. Mehlman, that he was required to  
 7 produce certain documents; isn't that right?  
 8 A. Yes.  
 9 Q. And did Mr. Mehlman give you a copy  
 10 of the list of documents that were required  
 11 to be produced and ask you to take care of  
 12 it?  
 13 A. I didn't get them from Mr. Mehlman.  
 14 I got them from our lawyers.  
 15 Q. So my question to you is, did  
 16 Mr. Mehlman direct you to gather the  
 17 documents --  
 18 A. Yes.  
 19 Q. -- requested?  
 20 A. Yes.  
 21 Q. Mr. Mehlman directed you? Is that  
 22 what you're saying?  
 23 A. Yes.  
 24 Q. Tell me what did Mr. Mehlman say to  
 25 you?

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1 J. Crook

2 A. Well, we received a letter. We  
3 received a letter -- he received a letter  
4 from -- who was the letter from. Was it  
5 from the court?

6 Q. From me.

7 A. Oh, from you. And said you need to  
8 provide this information. And I was asked to  
9 provide -- well, I read the letter, and you  
10 asked for supporting documentation.

11 Q. And you understood from that list  
12 of documentation that I was requesting that I  
13 was certainly questioning certain  
14 transactions, certain claims that had been  
15 filed against this thing. You understood  
16 that; correct?

17 MR. NASH: Objection.

18 Q. Is that correct?

19 A. Yes.

20 Q. Did you ultimately understand that  
21 I was questioning the legitimacy of certain  
22 exhibits which had been produced to me during  
23 Mr. Mehlman's deposition?

24 MR. NASH: Objection. The letter  
25 she's referring to, Franklin, is the one

1 J. Crook

2 the, quote, invoices.

3 Q. Yes.

4 A. And that was -- the information for  
5 the claims came from the general ledger. And  
6 it's hard to document a net result of a lot  
7 of transactions. So I took it upon myself, I  
8 just had these -- I created an invoice to  
9 represent what was in the balances or per the  
10 general ledger. I didn't realize that that  
11 was not what you wanted. I feel stupid right  
12 now.

13 Q. So you created invoices with legacy  
14 dates and provided them through Mr. Mehlman  
15 for me to look at; is that correct?

16 A. Yes.

17 Q. And you didn't make any provision  
18 on the document to identify or alert somebody  
19 that these documents were recent  
20 fabrications?

21 MR. NASH: Objection. It's not a

22 --

23 Q. Is that correct?

24 MR. NASH: I object to that.

25 A. It's a presentation. It was a

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1 J. Crook

2 --

3 MR. ZEMEL: Mr. Nash, please.

4 MR. NASH: -- that preceded the  
5 deposition.

6 MR. ZEMEL: Please don't.

7 MR. NASH: You're wrong.

8 MR. ZEMEL: Please don't.

9 MR. NASH: The letter she's  
10 referring to preceded Fred's deposition.

11 MR. ZEMEL: I'm well aware of that.

12 MR. NASH: Okay. But that's not  
13 what your question says.

14 MR. ZEMEL: Are you finished?

15 MR. NASH: Read your question back.

16 MR. ZEMEL: Are you finished?

17 MR. NASH: Yes.

18 MR. ZEMEL: Okay.

19 Q. Did you come to learn that during  
20 the deposition or examination of Mr. Mehlman  
21 that I began to question the legitimacy of  
22 certain exhibits which he produced to me at  
23 the deposition?

24 A. Yes, because you questioned -- I  
25 understand that you questioned the invoices,

1 J. Crook

2 presentation of amounts owed. And maybe my  
3 presentation was not what you were looking  
4 for. I would not call it a fabrication.

5 Q. Did you alert anyone that -- well,  
6 let me try it differently. Up until the time  
7 that you created those documents about two or  
8 three weeks ago, would it be fair to say they  
9 did not exist anywhere?

10 A. I would -- no, that is not true.

11 Q. Is there an original invoice?

12 A. There are schedules, schedules, and  
13 the general ledger that supports those  
14 amounts that are owed.

15 Q. I'm only addressing at the moment  
16 those invoices with legacy dates on them.

17 A. Okay. Which?

18 Q. They're not attached to Mr. Nash's  
19 letter. You created in Excel invoices which  
20 were exhibits at Mr. Mehlman's examination;  
21 isn't that right?

22 A. Yes.

23 Q. And you created those invoices in  
24 or about June of 2010; isn't that right?

25 A. Yes.

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1 J. Crook  
 2 Q. And you created them in the Excel  
 3 spread sheet program; isn't that correct?  
 4 A. Yes. Well, my staff did, but yes.  
 5 Q. And when you created these invoices  
 6 in June of 2010, you created the invoices  
 7 with dates from years ago; correct?  
 8 MR. NASH: Objection.  
 9 A. I really didn't focus on the -- I  
 10 did not focus on that there was an invoice  
 11 date on there. I know one referred to the  
 12 loan and the amount and the year or the time.  
 13 I really -- I don't remember what invoice  
 14 date was on it.  
 15 Q. Why didn't you just direct your  
 16 staff to print up the relevant excerpts of  
 17 the general ledger rather than creating --  
 18 A. I don't know.  
 19 Q. -- in June of 2010 --  
 20 A. I don't know.  
 21 Q. -- an invoice with a date from  
 22 years ago?  
 23 A. I don't know.  
 24 Q. Did you tell Mr. Mehlman or anybody  
 25 that you had just created these invoices in

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1 J. Crook  
 2 2010 for purposes of Mr. Mehlman's  
 3 examination?  
 4 A. No, I didn't. I just said here's  
 5 the -- I brought them up, I believe I brought  
 6 them up myself to the conference room.  
 7 MR. ZEMEL: May I have that  
 8 exhibit.  
 9 MR. NASH: Can I take a break for a  
 10 second? I want to use the men's room.  
 11 MR. ZEMEL: Yeah, sure.  
 12 (Recess taken from 11:54 a.m. to  
 13 11:57 a.m.)  
 14 Q. Let's look at this exhibit. On  
 15 this page of exhibit at the top do you see  
 16 where it says "Loan from A&M Properties III,  
 17 LLC"?  
 18 A. Yes.  
 19 Q. Is that your handwriting?  
 20 A. Yes.  
 21 Q. And tell me what did you have to do  
 22 to prepare this excerpt of the general  
 23 ledger?  
 24 A. I just ran it straight from the  
 25 accounting software.

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1 J. Crook  
 2 Q. You or someone on your behalf?  
 3 A. I did it.  
 4 Q. And you did it, and can you tell me  
 5 what filters did you apply?  
 6 A. I did it for the period August '07  
 7 to July '09.  
 8 Q. Why did you choose that period?  
 9 A. Because that's when the loan was  
 10 issued.  
 11 Q. Do you see where it says "Balance"  
 12 in this column?  
 13 A. Yes.  
 14 Q. On this excerpt of the general  
 15 ledger there is a negative balance of  
 16 \$248,000. Can you explain to me what that  
 17 is?  
 18 A. That's other amounts owed by A&M  
 19 Florida Properties, LLC, to other entities.  
 20 Q. Is that anywhere on the bankruptcy  
 21 schedules?  
 22 A. But that's the beginning balance.  
 23 So it wouldn't be.  
 24 Q. Does that negative \$248,000 number  
 25 reflect a liability that the debtor owes to

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1 J. Crook  
 2 others?  
 3 A. But that's August 2007. That's the  
 4 balance as of August 2007. That's the  
 5 beginning balance.  
 6 Q. Okay. And this number  
 7 represents --  
 8 A. The ending balance is 48,000,  
 9 which --  
 10 Q. Okay. I see what you're saying.  
 11 A. And within that 48,000, there is  
 12 28,000 that I do not believe is a liability  
 13 to anybody, so I did not include it.  
 14 Q. Explain that.  
 15 A. There was an entry from around  
 16 about December '04 or December '05, I don't  
 17 recall the exact date, that was to do with  
 18 payroll between Carib and Cutlerwood. And  
 19 somehow the entry got screwed up, and it's  
 20 still sitting there, and I don't believe it  
 21 belonged there. I think it should be put  
 22 back into, again, salary expense somewhere  
 23 along the line, because it's between Carib  
 24 and Cutler, so -- and it's one entity. And  
 25 some accountant, some junior accountant a

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1 J. Crook  
2 long time ago screwed something up, and then  
3 the accountants booked some entries, and it's  
4 just like a legacy of a problem that I have  
5 not resolved yet. But I did not believe it  
6 was a true liability, so I did not include it  
7 on the schedule. And the other 20,000 is  
8 this 20,000 that I was referring to.  
9 Q. So what this reflects is that at  
10 the opening period, that A&M Florida  
11 Properties owed \$248,000. Is this just  
12 intercompany loans? Is that what this is?  
13 A. Yes. Yes.  
14 Q. So this account number -- I can't  
15 see that. What is that account number?  
16 A. 2290.  
17 Q. So 2290, this is the account in the  
18 general ledger reflecting intercompany  
19 transfers?  
20 A. Yes.  
21 Q. And so the opening balance is minus  
22 -- it means it owed 248,000, and the credit  
23 would be -- this credit of 20,000 reflects a  
24 loan into this particular entity?  
25 A. Yes.

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1 J. Crook  
2 Q. Is that correct?  
3 A. Yes.  
4 Q. And what about this 50,000 entry  
5 and this 40,000 entry?  
6 A. They were other loans that were  
7 repaid before we filed. This 20,000 was  
8 still outstanding.  
9 Q. Now, here we're showing a \$200,000  
10 debit to Palm Gardens. Does this reflect  
11 that this is a repayment of a loan to Palm  
12 Gardens for \$200,000?  
13 A. That's a repayment of multiple  
14 entries. It's a balance. So it's lots of  
15 transactions within the opening balance of  
16 248, plus, you know, there's one here,  
17 50,000, which is from Palm, but this 248  
18 includes --  
19 Q. How can you tell that's from Palm?  
20 A. Because it says here "Loan from  
21 Palm."  
22 Q. Oh, in the remarks?  
23 A. Yes.  
24 Q. Okay.  
25 A. And that was loan from Shady, which

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1 J. Crook  
2 is A&M Florida Properties III.  
3 Q. So I want to try to understand  
4 this. So you're saying to me, then, that on  
5 March 9th Palm Gardens -- I'm sorry. On  
6 March 9th the debtor repaid a \$200,000 loan  
7 to Palm Gardens?  
8 A. It repaid 200,000, which was made  
9 up of I would say 15 to 20 transactions that  
10 netted out to 200,000.  
11 Q. But when you say transactions,  
12 these are intercompany loans.  
13 A. Yes.  
14 Q. Is that correct?  
15 A. Yes.  
16 Q. Is there any documentation, is  
17 there an audit trail supporting these various  
18 loans or intercompany transfers?  
19 A. Well, they were transfers between  
20 entities that were owned a hundred percent  
21 that we would have -- somewhere there would  
22 be a wire transfer request that is  
23 authorized. And it's all in the general  
24 ledger. The bank reconciliations are done  
25 monthly, so.

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1 J. Crook  
2 Q. Do you have an understanding of  
3 what an audit trail is?  
4 A. Yes.  
5 Q. Okay. I know you do. What I'm  
6 asking is, is there an audit trail that  
7 supports each of these transfers listed on  
8 this particular schedule?  
9 A. Yes. I have to find the  
10 documentation, but yes, we have it somewhere.  
11 That "somewhere" is the key word.  
12 Q. So do you have any reason to  
13 believe that the audit trail or source  
14 documents have been lost or destroyed in any  
15 fashion?  
16 A. I think they're -- this particular  
17 one, we are looking for it. We have the  
18 bank statement --  
19 Q. This particular one is the actual  
20 --  
21 A. The \$20,000 --  
22 Q. -- \$20,000 loan?  
23 A. -- because I asked somebody to pull  
24 the wire. The wire. And in the short time  
25 frame from yesterday to today, I could not --

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1 J. Crook  
 2 from your letter yesterday morning, I have  
 3 not located it yet. But I know we have it  
 4 somewhere. We've had multiple accountants  
 5 working on these properties, and so things  
 6 get filed a little bit differently.  
 7 Q. I understand that --  
 8 A. It's wires. You know, if you have  
 9 a check, it's straightforward. I can go to  
 10 the check file and pull it. But wires, some  
 11 people filed it here, some people filed it  
 12 there.  
 13 Q. But even the wire transfers doesn't  
 14 address my entire issue, which is you told me  
 15 earlier this morning that somebody has to  
 16 request an intercompany loan and somebody has  
 17 to approve it; is that correct?  
 18 A. Yes. It's often done -- it can be  
 19 done very informally.  
 20 Q. Without any documentation of any  
 21 kind?  
 22 A. We always have a wire request piece  
 23 of paper that our check signer, our  
 24 authorized bank signer signs. We always have  
 25 that. The approval by somebody internally to

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1 J. Crook  
 2 make the transfer is often done verbally, you  
 3 know, can we, you know -- cash flow varies  
 4 from property to property. And so to assist  
 5 with cash flow, it was normal practice to  
 6 make these intercompany loans, and it would  
 7 be, okay, you know, in this particular case  
 8 it was -- well, if you went into AMFP, so  
 9 AMFP needed 20,000, and we borrowed it from  
 10 Shady Oaks. So there is a wire form that has  
 11 a signed -- there is a signed document  
 12 somewhere.  
 13 Q. Somewhere.  
 14 A. Yes, there is.  
 15 Q. And you're going to find that for  
 16 me?  
 17 A. I will, yes.  
 18 Q. You just referred to AMFP. For the  
 19 benefit of the reporter, explain to the  
 20 reporter what AMFP is.  
 21 A. A&M Florida Properties, LLC.  
 22 Q. So what I do need, I'm going to see  
 23 the audit trail and the source documents for  
 24 these, but I want to focus now on this  
 25 March 9th entry relating to Palm Gardens. Am

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1 J. Crook  
 2 I correct that this document reflects that on  
 3 March 9th of 2009 the debtor repaid a loan to  
 4 Palm Gardens in the amount of \$200,000?  
 5 A. Yes. Loans, plural.  
 6 Q. Well, that, of course, there is a  
 7 starting balance of almost 200 --  
 8 A. Right. I just want to reiterate  
 9 it's not -- we didn't receive 200,000 and  
 10 paid 200,000 back.  
 11 Q. I understand. It's a series --  
 12 A. It's a series of transactions going  
 13 both ways.  
 14 Q. All right. It's a series of  
 15 transactions --  
 16 A. Yes.  
 17 Q. -- over the period of time, but on  
 18 March 9th, while the debtor was in  
 19 bankruptcy, it repaid \$200,000 to Palm  
 20 Gardens?  
 21 MR. NASH: It's not in bankruptcy.  
 22 The bankruptcy in July, Franklin.  
 23 A. Yes.  
 24 Q. Palm Gardens was in bankruptcy --  
 25 A. Palm Gardens was in bankruptcy but

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1 J. Crook  
 2 we --  
 3 Q. Palm Gardens was in bankruptcy --  
 4 MR. NASH: They got the money.  
 5 Q. -- in December of '08.  
 6 MR. NASH: They didn't repay  
 7 anybody. They received the money.  
 8 MR. ZEMEL: Okay.  
 9 Q. So Palm Gardens received \$200,000  
 10 while in bankruptcy?  
 11 A. Correct.  
 12 Q. When did Carib go into bankruptcy?  
 13 A. July 31st?  
 14 MR. NASH: The end of July. I  
 15 don't know if it's --  
 16 Q. The end of July.  
 17 MR. NASH: -- the 29th or  
 18 July 31st. It's right around there.  
 19 Q. Now, when you were preparing the  
 20 schedules for the bankruptcy, did you note  
 21 anywhere on the schedules that there had been  
 22 within twelve months of the filing of the  
 23 bankruptcy a transfer of \$200,000 from the  
 24 debtor to an affiliated company?  
 25 MR. NASH: The debtor didn't

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1 J. Crook  
 2 transfer the money. Which debtor are  
 3 you talking about?  
 4 MR. ZEMEL: We just said, A&M  
 5 Florida Properties --  
 6 MR. NASH: Okay. Why don't we use  
 7 Carib to Palm Gardens. I think it would  
 8 be simpler.  
 9 MR. ZEMEL: Okay.  
 10 Q. Is that all right with you, ma'am?  
 11 A. Yes.  
 12 Q. On the original bankruptcy  
 13 schedules that were filed, did you report  
 14 anywhere that Carib Villas and Cutlerwood had  
 15 repaid or transferred \$200,000 to Palm  
 16 Gardens within twelve months of the filing of  
 17 the bankruptcy?  
 18 MR. NASH: Objection.  
 19 A. I didn't -- I did not think they  
 20 were related, affiliated. I knew we paid  
 21 nothing to GFI Management, no loans, or  
 22 anybody else, but.  
 23 Q. Are you saying that you don't  
 24 believe that Palm Gardens and Carib Villas  
 25 are affiliated? Isn't the ownership of A&M

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1 J. Crook  
 2 Florida Properties and A&M Florida  
 3 Properties II the same, as far as you know?  
 4 MR. NASH: I'm going to object. We  
 5 filed amended schedules. Why don't you  
 6 ask the witness about the amended  
 7 schedules.  
 8 Q. Isn't the ownership structure of  
 9 A&M and A&M II the same, as far as you know?  
 10 A. I think so. Without the tax  
 11 returns in front of me, I never swear to  
 12 anything, because, you know, they're very  
 13 similar, but I don't know they're exactly the  
 14 same.  
 15 Q. And you understand that Alan Gross  
 16 -- well, let me try it differently. On the  
 17 recently filed amendments to the bankruptcy  
 18 schedules, was this \$200,000 payment  
 19 disclosed?  
 20 A. No.  
 21 Q. Can you tell me why this \$200,000  
 22 payment was not disclosed even in the amended  
 23 schedules?  
 24 A. If this should have been, then I  
 25 made a big -- I made a mistake. If that

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1 J. Crook  
 2 should have been on there, I made a mistake.  
 3 Q. Did anybody tell you that it should  
 4 or should not be disclosed?  
 5 A. No.  
 6 Q. Now, you understood that the reason  
 7 that you were being asked to assist in the  
 8 filing of the amended schedules is because of  
 9 questions that I had asked Mr. Mehlman about  
 10 two weeks ago; isn't that right?  
 11 A. I understood we were amending them  
 12 because of some of the creditors were no  
 13 longer creditors, and we, you know, amended  
 14 those. And you had asked questions about the  
 15 20,000. That's what I understood. And  
 16 there's another loan to management that  
 17 wasn't on the original one of \$5,000.  
 18 Q. So you understood that I had  
 19 questioned Mr. Mehlman and I had asked a  
 20 number of questions about the original  
 21 bankruptcy schedules. You understood that;  
 22 correct?  
 23 A. Yes.  
 24 Q. And you understood that not too  
 25 long after that examination was adjourned,

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1 J. Crook  
 2 that you were asked to participate in  
 3 preparing amended schedules for Carib and  
 4 Cutlerwood; isn't that right?  
 5 A. Yes.  
 6 Q. And who asked you to participate in  
 7 the amended schedules?  
 8 A. Our lawyers.  
 9 Q. Who?  
 10 A. It would be either Ted Donovan or  
 11 Kevin Nash.  
 12 Q. What specifically were you  
 13 instructed?  
 14 MR. NASH: Objection. That's  
 15 privileged communication.  
 16 MR. ZEMEL: Just make your record,  
 17 please.  
 18 MR. NASH: Okay.  
 19 MR. ZEMEL: Go ahead. Explain to  
 20 me why that question asked of the  
 21 controller of GFI --  
 22 MR. NASH: Because she's an agent  
 23 of the debtor. These are the debtor's  
 24 schedules. And her communications with  
 25 the bankruptcy counsel in connection

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1 J. Crook  
2 with preparing the debtor's schedules is  
3 privileged.

4 MR. ZEMEL: Okay. Would it be your  
5 position, then, Mr. Nash, that there is  
6 absolutely nobody on the entire planet  
7 that I would be able to ask and get an  
8 answer to what prompted the filing of  
9 these schedules? Just tell me if there  
10 is anyone on the planet that can answer  
11 that question without you invoking the  
12 privilege.

13 MR. NASH: Yes, there is somebody  
14 on the planet.

15 MR. ZEMEL: Who would that be?  
16 Mr. Nash? Who would that be?

17 MR. NASH: The prompting of the  
18 schedules is the correct errors in the  
19 initial schedules. Now, I told you at  
20 the deposition that I didn't think those  
21 schedules were complete because they  
22 referred to schedules that weren't  
23 attached. And so when we went back to  
24 the office, I didn't understand why  
25 there would be schedules that referred

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1 J. Crook  
2 to schedules that didn't have the  
3 attachments. And I don't think they  
4 were filed with those schedules. And  
5 there were certain issues that came up  
6 at Mr. Mehlman's deposition. When we  
7 went back and the witness was speaking  
8 to Dr. Cornfeld going over the general  
9 ledger, and it was the determination  
10 made, in consultation with me, to update  
11 and amend the schedules.

12 Now, the answer to your question  
13 would be, is there anybody in the world  
14 that could answer that question without  
15 invoking the privilege? The answer is  
16 yes. And I assume that Mr. Mehlman  
17 could answer that question, although he  
18 consulted with me, but that's why we did  
19 it. It's self-explanatory why we did  
20 it. I think there were errors, and we  
21 might do it again if there's errors in  
22 the schedules.

23 Now, I also note that the  
24 bankruptcy rule allows liberal  
25 amendments, and we just want to get

1 J. Crook  
2 accurate information. We're trying to  
3 do it. You're putting us to the test of  
4 every transaction. We're just trying to  
5 get accurate information. And we will  
6 amended them from time to time as need  
7 be. So I'm surprised that this  
8 transaction wasn't listed, and I'm  
9 double checking to see if it is, but if  
10 it was omitted --

11 MR. ZEMEL: You're talking about  
12 the \$200,000 transaction?

13 MR. NASH: Yes, the \$200,000  
14 transaction, which I gave to you,  
15 Franklin, before we filed the amended  
16 schedule. So you already had the  
17 \$200,000 transaction in your possession  
18 before we filed the amended schedules,  
19 so it was already disclosed to you  
20 before that time. So I'm just trying to  
21 understand this transaction.

22 Now, looking at the schedules, we  
23 ran a report of checks within a year's  
24 time from 90 days' time. And I'm just  
25 trying to understand why that report is,

1 J. Crook  
2 and now that I see it, she ran a report  
3 just for GFI Management Services and not  
4 the other debtors.

5 THE WITNESS: And GFI Insurance  
6 and --

7 MR. NASH: Right, and not the other  
8 debtors. And that's the only reason.  
9 So this report only has two affiliates  
10 and not the debtors which are also in  
11 Chapter 11. So we will not amend the  
12 schedule. We will supplement it with  
13 additional reports. She only ran it for  
14 two companies, not all the other  
15 companies. And that's the only reason.  
16 So there is no mystery to it. You had  
17 it. You brought it to our attention.  
18 The witness feels she takes pride in  
19 what she does, and if an error was made,  
20 it was an error that was made in good  
21 faith, and we'll supplement it. She  
22 obviously only ran it for two companies  
23 and not for the other debtors because of  
24 whatever reason. Maybe she was unclear.  
25 Maybe she didn't understand it related

<p style="text-align: right;">Page 69</p> <p>1 J. Crook</p> <p>2 to people in bankruptcy. I didn't speak</p> <p>3 to her about those schedules. But I</p> <p>4 certainly will after the deposition. I</p> <p>5 reserve the right to supplement it with</p> <p>6 additional schedules. That's all.</p> <p>7 There's no mystery to it.</p> <p>8 MR. ZEMEL: Are you finished?</p> <p>9 MR. NASH: Yes.</p> <p>10 MR. ZEMEL: What I had asked you to</p> <p>11 do is to make your record in support of</p> <p>12 your claim of privilege and tell me is</p> <p>13 there a human being anywhere on the</p> <p>14 planet that can answer me under oath</p> <p>15 what they were told in terms of</p> <p>16 preparing the amended schedules.</p> <p>17 MR. NASH: Well, since I gave the</p> <p>18 instruction to prepare the amended</p> <p>19 schedules, they can only testify that</p> <p>20 counsel instructed us to prepare the</p> <p>21 amended schedules.</p> <p>22 MR. ZEMEL: And when you gave that</p> <p>23 instruction to these people, whoever</p> <p>24 they are, was that information which you</p> <p>25 intended at the time to remain</p>	<p style="text-align: right;">Page 71</p> <p>1 J. Crook</p> <p>2 all this information. And this is the</p> <p>3 troubling part of this. We've given all</p> <p>4 information to Dr. Cornfeld under the</p> <p>5 belief, and the emails will check it</p> <p>6 out, that we wouldn't have to go through</p> <p>7 this examination. It would be a free</p> <p>8 flow of exchange. And so that's why I</p> <p>9 allowed Judith to speak directly to</p> <p>10 Dr. Cornfeld freely, openly at any time</p> <p>11 so we would avoid this. There were</p> <p>12 certain omissions made, they were</p> <p>13 innocent omissions, and they're easily</p> <p>14 explained and easily corrected. And</p> <p>15 this \$20,000 loan, what has been on the</p> <p>16 general ledger for a long time, and we</p> <p>17 gave you that information. And that's</p> <p>18 the only reason. It wasn't omitted. It</p> <p>19 just wasn't one of the schedules that</p> <p>20 was put together. That's it.</p> <p>21 MR. ZEMEL: Are you finished yet?</p> <p>22 MR. NASH: And I go back to the</p> <p>23 point, and I think it's a fair point,</p> <p>24 and you agreed with me going in, we were</p> <p>25 supposed to have Dr. Cornfeld speak to</p>
<p style="text-align: right;">Page 70</p> <p>1 J. Crook</p> <p>2 confidential?</p> <p>3 MR. NASH: Was my information</p> <p>4 intended -- it was a legal communication</p> <p>5 between an attorney and a client that</p> <p>6 was intended to remain confidential,</p> <p>7 yes.</p> <p>8 MR. ZEMEL: So when you gave the</p> <p>9 direction to whomever to update or amend</p> <p>10 these schedules, did you it purposefully</p> <p>11 in a way so that those communications</p> <p>12 could not ultimately be discovered by a</p> <p>13 creditor such as my client.</p> <p>14 MR. NASH: No. I gave it to them</p> <p>15 to make sure that they could give me a</p> <p>16 full understanding of their knowledge of</p> <p>17 the situation. So I believe it was a</p> <p>18 legal communication. Now, Franklin,</p> <p>19 again, the witness has been very</p> <p>20 forthright that she made a mistake in</p> <p>21 only including GFI Management and GFI</p> <p>22 Insurance and she didn't include the</p> <p>23 other debtors in running the schedules.</p> <p>24 She will do that. We will supplement</p> <p>25 it. We ran a 90-day list. We've given</p>	<p style="text-align: right;">Page 72</p> <p>1 J. Crook</p> <p>2 Judith directly to avoid this, even</p> <p>3 though you took advantage of that, you</p> <p>4 didn't live up to your end of it. But</p> <p>5 go ahead.</p> <p>6 MR. ZEMEL: You've been speaking</p> <p>7 non-stop for eight minutes.</p> <p>8 MR. NASH: I don't know it's</p> <p>9 non-stop. You asked me a question to</p> <p>10 make a record. I've made a record.</p> <p>11 MR. ZEMEL: Okay. Let me know when</p> <p>12 you're done, because I've already</p> <p>13 emailed my staff to change my plane,</p> <p>14 because there's no way I'm going to make</p> <p>15 it now. Are you finished?</p> <p>16 MR. NASH: I've made my record.</p> <p>17 MR. ZEMEL: Okay.</p> <p>18 THE WITNESS: May I go to the</p> <p>19 restroom?</p> <p>20 MR. NASH: Yes.</p> <p>21 (Recess taken from 12:21 p.m. to</p> <p>22 12:27 p.m.)</p> <p>23 Q. The next page of Exhibit 1 is</p> <p>24 another schedule from the general ledger that</p> <p>25 says, "Loan from GFI Management." Is that</p>

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1 J. Crook  
 2 your handwriting?  
 3 A. Yes.  
 4 Q. And did you have this document  
 5 prepared under your direction, or did you do  
 6 this yourself?  
 7 A. I ran this from Yardi myself.  
 8 Q. You ran it from the Yardi program?  
 9 A. Yes. And the filter information is  
 10 in the top left-hand column. I was asked  
 11 before what filter criteria I used, and it's  
 12 documented on the exhibit.  
 13 Q. Can you tell me, please, describe  
 14 for me what this document is.  
 15 A. It's intercompany loan schedule for  
 16 a period of time from January '07 to  
 17 June '07.  
 18 Q. And, again, it's the same account  
 19 number, the 2290 general ledger account?  
 20 A. Yes.  
 21 Q. Now, doesn't the Yardi system  
 22 provide for a different sub-account under  
 23 2290 so that each of the various affiliates  
 24 that was lending money would be separately  
 25 identified?

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1 J. Crook  
 2 A. It could. I mean it depends how  
 3 you set up each of the accounts.  
 4 Q. But it's not done here?  
 5 A. On this one everything is in one  
 6 account.  
 7 Q. If all of these intercompany loans  
 8 are under the GL account number 2290, how did  
 9 you go about segregating what transfers  
 10 related to GFI Management, for instance?  
 11 A. By analyzing what's in the general  
 12 ledger, put it into columns by entity.  
 13 Q. Explain to me exactly what you did  
 14 step by step, please. Were you doing word  
 15 searches? I mean tell me exactly step by  
 16 step what you did. Or, stated differently,  
 17 if I asked you to recreate precisely that  
 18 document right now, tell me the steps --  
 19 A. This particular document?  
 20 Q. Yes. Tell me exactly what you  
 21 would do to recreate that document.  
 22 A. Is this a trick question?  
 23 Q. No, it's not.  
 24 A. Because it sounds like it.  
 25 Q. It's not.

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1 J. Crook  
 2 A. I go to Yardi. If you want this  
 3 particular document, I would go to Yardi. I  
 4 would put in the same filter criteria, and  
 5 this report would come out.  
 6 Q. But I guess where I'm getting  
 7 confused is that when we saw the last page  
 8 that we just looked at where it talked about  
 9 the loans from A&M III --  
 10 A. Yes.  
 11 Q. -- it's the same general ledger  
 12 account number, 2290.  
 13 A. Yes.  
 14 Q. And so this is where I'm getting  
 15 confused. How can the same general ledger  
 16 account have different balances?  
 17 MR. NASH: Objection.  
 18 A. It's the same account. It doesn't  
 19 have different balances. It's different --  
 20 the ending balance here actually is the  
 21 beginning balance there. So it's different  
 22 periods of time for the same account number.  
 23 Q. But there must be, I assume,  
 24 thousands of various transactions in GL  
 25 account number 2290. Is that a fair

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1 J. Crook  
 2 statement?  
 3 MR. NASH: Objection.  
 4 A. That is not a fair statement.  
 5 Q. Oh, it's not?  
 6 A. No.  
 7 Q. Okay. But there's --  
 8 A. There are many transactions, but  
 9 thousands there are not.  
 10 Q. So there are many transactions in  
 11 GL account number 2290 that reflect  
 12 intercompany transfers from all of the  
 13 various affiliates; is that correct?  
 14 A. Yes.  
 15 Q. But GL 2290 is not broken down by  
 16 subcategory based upon which particular  
 17 affiliate is transacting --  
 18 A. They have remarks that identify --  
 19 in the remarks will identify it.  
 20 Q. Okay. That's my point. So if you  
 21 were going to go and you were going to  
 22 generate a report for all loans to and from  
 23 GFI Management and A&M Florida Properties,  
 24 you would go to Yardi, you would access the  
 25 GL account 2290, and then how would you

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1 J. Crook  
 2 separate out only the transactions relating  
 3 to GFI Management and Carib Villas?  
 4 A. We maintain loan schedules in Excel  
 5 in addition to -- to analyze what's in the  
 6 general ledger. And over time those -- we  
 7 have, not for this particular property,  
 8 because it went away Carib, we no longer have  
 9 Carib or Cutlerwood, but those sub-ledgers  
 10 were eventually created, and this is just in  
 11 -- in not this specific property, but we  
 12 analyzed line by line, put it into a column  
 13 in Excel that said this was from A&M Florida  
 14 Properties III, this was from GFI Management.  
 15 That's how.  
 16 Q. And where are those Excel spread  
 17 sheets? Is this an Excel spread sheet?  
 18 A. This is not.  
 19 Q. Where are those Excel spread  
 20 sheets?  
 21 A. It's on our network. They're an  
 22 Excel spread sheet. They're an electronic  
 23 file. They're filed on our network.  
 24 Q. But those can be printed easily,  
 25 can they not?

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1 J. Crook  
 2 A. Yes.  
 3 Q. So I just want to understand. So  
 4 you go into Yardi, you open up GL 2290, you  
 5 see many different transactions. And then  
 6 you go through and you searched for the ones  
 7 that said GFI Management?  
 8 A. I went --  
 9 Q. And that's what ended up on this  
 10 schedule?  
 11 A. I went to the spread sheet that was  
 12 prepared a long time ago that said these are  
 13 the loans, this is who owes who to what, that  
 14 analyzed this account. Many people do  
 15 analysis not in the GL. They'll take the  
 16 detail in the GL and create Excel  
 17 spreadsheets to analyze the data. That's  
 18 what we did. And we didn't just do it last  
 19 week. We did this a long time ago.  
 20 Q. Well --  
 21 A. And then...  
 22 Q. It seems like such a simple  
 23 question.  
 24 A. I was asked for the general ledger.  
 25 I was asked to provide the general ledger.

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1 J. Crook  
 2 So using the spreadsheet, I could circle the  
 3 transactions that related to the specific  
 4 transaction --  
 5 MR. NASH: This is an attachment to  
 6 my letter so you could see just where it  
 7 was in the general ledger. That's all,  
 8 Franklin. It's my letter you're asking  
 9 her about.  
 10 MR. ZEMEL: I'm asking about the  
 11 schedule that she said she prepared.  
 12 Please, Mr. Nash, don't interrupt.  
 13 MR. NASH: Sorry, Mr. Zemel.  
 14 Q. So if I understand, you looked at  
 15 the Excel spreadsheets first, you identified  
 16 the specific transactions, and then you went  
 17 to Yardi, and then you I guess tagged those  
 18 specific transactions?  
 19 A. I circled them. They are circled.  
 20 Q. Well, what I'm saying, I mean  
 21 there's only about eight or nine transactions  
 22 listed on this particular schedule. There  
 23 must be more than eight or nine in account  
 24 2290.  
 25 A. Yes.

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1 J. Crook  
 2 Q. That's what I'm trying to  
 3 understand.  
 4 A. Well, I just -- for the two items I  
 5 was asked to support, I printed the relevant  
 6 period in the GL to show those balances.  
 7 Q. I see. Okay. So now let me ask  
 8 you, then, so the starting balance from  
 9 January of '07 shows that A&M Florida  
 10 Properties owed \$1.2 million to GFI  
 11 Management?  
 12 A. Not to GFI Management. To various  
 13 entities.  
 14 Q. Oh, I see. Okay. Now I'm  
 15 beginning to understand what you're saying.  
 16 As far as you know, was that unusual for one  
 17 of these entities to be so negative?  
 18 A. My understanding, again, predating  
 19 when those loans were made, they were made in  
 20 2005 because of all the hurricane damage in  
 21 2004, Carib and Cutler, I understood, and,  
 22 again, this is just what I was told, that  
 23 there was a lot of damage, and there was no  
 24 insurance to cover it, and loans were made.  
 25 Q. Now, the \$15,000 that we're talking

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1 J. Crook  
 2 about here, this reflects the loan from GFI  
 3 to Carib; is that correct?  
 4 A. Yes.  
 5 Q. And what is the audit trail and  
 6 source documents for this transaction?  
 7 A. That would be a wire transfer.  
 8 Q. And you can tell that how from  
 9 looking at this document?  
 10 A. Because it's a journal entry.  
 11 Q. And do you know what that loan is  
 12 for?  
 13 A. It would be to cover an overdraft.  
 14 It would be to pay expenses. The property  
 15 needed money, so we loaned them money.  
 16 Q. And this number --  
 17 A. That's a partial repayment.  
 18 Q. So the net is that GFI Management  
 19 claims there's a \$5,000 loan payable  
 20 essentially --  
 21 A. Still outstanding.  
 22 Q. Still outstanding?  
 23 A. Yes.  
 24 Q. What can you tell me about this  
 25 page from Exhibit 1 of Mr. Nash's letter?

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1 J. Crook  
 2 A. These are December 2008 management  
 3 fees that were never paid.  
 4 Q. And do you have an understanding as  
 5 to why they were not paid?  
 6 A. I don't remember. I would say -- I  
 7 don't want to guess. I don't want to guess.  
 8 Q. If you don't know and that's  
 9 truthful, you can say that.  
 10 A. If it was an error, it has to be an  
 11 error on accounts payable for not paying it.  
 12 Q. Is there a written management  
 13 contract between A&M and GFI Management?  
 14 A. I believe so.  
 15 Q. Is that standard that there's a  
 16 written management contract between GFI  
 17 Management and the various affiliates that it  
 18 manages?  
 19 A. Yes. Yes. I'm hesitant because on  
 20 some of the older properties before my time,  
 21 if we owned them a hundred percent, we'd have  
 22 been having an agreement with ourselves. So  
 23 in the main, we have written management  
 24 agreements. Do we have them for every  
 25 entity, I don't know.

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1 J. Crook  
 2 Q. Do you know whether there is a  
 3 written management contract between GFI  
 4 Management and A&M Florida Properties?  
 5 A. I'm not sure.  
 6 Q. Have you ever looked for it?  
 7 A. I have not. I don't know. I don't  
 8 do the management agreements.  
 9 Q. Nobody asked you to look for it?  
 10 A. No, because I am not responsible  
 11 for keeping the management agreements.  
 12 Q. Nobody asked you to look for it and  
 13 you reported back that you couldn't locate  
 14 it?  
 15 A. No.  
 16 Q. That never happened?  
 17 A. Not that I recall.  
 18 (Exhibit 2, Proof of Claim filed by  
 19 Alan Gross on February 18th, 2010, for  
 20 two million dollars, marked for  
 21 identification, as of this date.)  
 22 Q. Let me ask you to take a look at  
 23 what I've marked as Exhibit Number 2, which  
 24 is the Proof of Claim filed by Alan Gross on  
 25 February 18th, 2010, for two million dollars.

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1 J. Crook  
 2 Have you ever seen this document before?  
 3 A. Yes.  
 4 Q. Did you see this document at or  
 5 about the time that it was filed with the  
 6 court in February of 2010?  
 7 A. Yes.  
 8 Q. And did you participate or assist  
 9 Mr. Gross in any way in filing this proof of  
 10 claim?  
 11 A. Yes.  
 12 Q. Tell me what you did.  
 13 A. What did I specifically do. I  
 14 brought and asked the question that does the  
 15 two million dollar deposit that was put up by  
 16 Mr. Gross or Mrs. Gross, and my understanding  
 17 of that was that it was a loan, it was put up  
 18 as a deposit and that, you know, at the end  
 19 of the lease, that it would have been  
 20 returned to him.  
 21 Q. Let me just stop you for a moment.  
 22 Last week a proof of claim replacing the one  
 23 from February was filed. And I don't want  
 24 you to be confused --  
 25 A. No, I'm not. I will get to that.

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1 J. Crook  
 2 Q. Okay. So what you're telling me is  
 3 your involvement back in February of 2010 on  
 4 the original proof of claim; is that right?  
 5 A. Yes.  
 6 Q. Okay. Go ahead.  
 7 A. And I thought this was a loan. In  
 8 my mind it was a loan. When I went back  
 9 through the tax returns, because I was not  
 10 showing a two million dollar liability in  
 11 Yardi, when I went back to the tax returns,  
 12 the accountants who were keeping our books  
 13 back in those days, they still do the tax  
 14 returns, but they really maintained the  
 15 books, they treated it as capital.  
 16 Q. I'm not following you. Let's start  
 17 over again. Prior to February 10th -- I'm  
 18 sorry. What was the date of this.  
 19 February 18th. Okay.  
 20 Prior to the filing of this  
 21 February 18, 2010, two million dollar proof  
 22 of claim, did you have any discussions with  
 23 anyone about Mr. Gross's claim for  
 24 two million dollars?  
 25 A. Yes.

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1 J. Crook  
 2 Q. Tell me how it first came to your  
 3 attention.  
 4 A. I spoke with our then in-house  
 5 counsel.  
 6 Q. Mr. Zlotnick?  
 7 A. Mr. Zlotnick.  
 8 Q. Okay.  
 9 A. And said we have, this entity has a  
 10 two million dollar deposit out there that was  
 11 funded by Alan Gross, as I understood, and  
 12 was that, you know -- that is potentially a  
 13 claim.  
 14 Q. Can you tell me what prompted that  
 15 discussion at or about February of 2010?  
 16 A. Because we had to fill out the  
 17 proofs of claim.  
 18 Q. And can you tell me why was that  
 19 two million dollars not mentioned anywhere in  
 20 the original bankruptcy schedules that were  
 21 filed?  
 22 A. I can't tell you.  
 23 Q. And who prompted this discussion of  
 24 the two million dollars, you or someone else?  
 25 A. I did. I raised the question. And

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1 J. Crook  
 2 I did not ask myself the question when I was  
 3 filling out the numbers for the original  
 4 filing.  
 5 Q. Well, did you participate in the  
 6 drafting or filling out of any of the  
 7 information on Exhibit 2?  
 8 A. I don't recall if I filled them out  
 9 or if Mr. Zlotnick filled them out. I  
 10 participated in the process. I don't  
 11 physically -- I don't recall who physically  
 12 typed in the numbers.  
 13 Q. And you recognize the signature?  
 14 A. Yes.  
 15 Q. And whose signature is that?  
 16 A. Alan Gross.  
 17 Q. And you understood that Alan Gross  
 18 was signing that under penalties of perjury;  
 19 is that correct? Is that correct?  
 20 A. No.  
 21 Q. Did you understand that you were  
 22 assisting Mr. Gross to file a claim against  
 23 the debtor that you're supposed to be  
 24 managing?  
 25 A. Yes.

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1 J. Crook  
 2 Q. Did you have any cognitive  
 3 dissonance?  
 4 MR. NASH: Objection. Objection.  
 5 There's nothing sinister about filing a  
 6 proof of claim to a bar date. So  
 7 cognitive dissonance has nothing to do  
 8 with this, Franklin. Now, please,  
 9 you're the one that imposed the bar  
 10 date.  
 11 MR. ZEMEL: Please don't interrupt  
 12 and coach the witness.  
 13 MR. NASH: I'm not coaching.  
 14 You're asking a question, cognitive  
 15 dissonance.  
 16 A. Could you explain what it is.  
 17 Q. Yes.  
 18 A. I'm an accountant, not a lawyer.  
 19 Q. Well, I was using an old psychology  
 20 term that I thought was actually coined in --  
 21 never mind. We'll do that off the record.  
 22 Did you think that there was  
 23 anything inconsistent with you assisting in  
 24 the preparation of a claim on behalf of Alan  
 25 Gross against the debtor that you were

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1 J. Crook  
 2 supposed to be managing?  
 3 MR. NASH: Objection.  
 4 A. No.  
 5 Q. Now, so if I understand your  
 6 testimony, you had some sort of an epiphany  
 7 where the two million dollars --  
 8 MR. NASH: Objection.  
 9 Q. -- just sort of came to mind and  
 10 you addressed it with Mr. Zlotnick? Is that  
 11 about what happened?  
 12 MR. NASH: Objection.  
 13 A. Yes.  
 14 Q. And so what research or due  
 15 diligence did you do to assist Mr. Gross in  
 16 characterizing this two million dollars as a  
 17 loan?  
 18 A. I don't specifically recall what  
 19 conversation I had. I could guess at what  
 20 was said. Do you want me to guess and try  
 21 and recall?  
 22 Q. I would like you to refresh your  
 23 recollection in any way that you feel  
 24 comfortable.  
 25 MR. NASH: If you remember, you

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1 J. Crook  
 2 remember. If you don't, please don't  
 3 guess.  
 4 A. Then I don't. I don't remember. I  
 5 knew somebody -- the money had been put up,  
 6 and it was put up, in my understanding, by  
 7 Mr. Gross.  
 8 Q. Prior to the time that this claim  
 9 was filed, did you or anyone on your behalf  
 10 do any research or due diligence of any kind  
 11 checking the company records to see if there  
 12 was even a record of the two million dollars  
 13 ever being received by the entity, meaning  
 14 A&M Florida Properties?  
 15 A. I knew that the money had always  
 16 gone directly to Greenberg Traurig. It never  
 17 came through A&M Florida Properties. The  
 18 money directly went directly into escrow with  
 19 Greenberg Traurig from Mr. Gross.  
 20 Q. That was long before you came to be  
 21 employed here?  
 22 A. Yes.  
 23 Q. My question is, did you research  
 24 for an audit trail to determine whether that  
 25 two million dollars was indeed a loan or not?

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1 J. Crook  
 2 MR. NASH: Objection. Asked and  
 3 answered.  
 4 A. Not with the time of doing this  
 5 claim. I know in the past I had spoken with  
 6 Greenberg Traurig about the deposit and I was  
 7 aware of it.  
 8 Q. But the fact that Greenberg Traurig  
 9 is holding two million dollars --  
 10 MR. NASH: Objection.  
 11 Q. -- or were holding two million  
 12 dollars at that time is not my issue. I'm  
 13 interested in how things were booked on the  
 14 records of this debtor.  
 15 A. And as I've said, they were booked  
 16 on the records of the debtor as a capital  
 17 contribution.  
 18 Q. But you didn't know that until just  
 19 in the last week or so; isn't that right?  
 20 A. I didn't think about it. The  
 21 question came up, and so I went back through  
 22 the old tax returns to find it, to look for  
 23 it.  
 24 Q. All right. If you went searching  
 25 through the debtor's records right now, would

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1 J. Crook  
 2 you find any evidence or audit trail of any  
 3 kind reflecting that two million dollars as a  
 4 loan on the books and records of the debtor?  
 5 MR. NASH: Objection.  
 6 A. Not in the general ledger.  
 7 Q. Would it be reflected anywhere as a  
 8 loan to the debtor?  
 9 A. I don't know.  
 10 Q. You certainly haven't found any  
 11 piece of paper that characterizes that  
 12 two million dollars as a loan; is that  
 13 correct?  
 14 A. Correct. That's why this was an  
 15 amended return was to say it was capital  
 16 contribution.  
 17 Q. So if we can agree that there is no  
 18 piece of paper that you've been able to find,  
 19 and there's certainly no entry on the books  
 20 and records of the company that characterized  
 21 the two million dollars as a loan to the  
 22 debtor. That's correct?  
 23 MR. NASH: Objection.  
 24 Q. Am I right?  
 25 MR. NASH: This is asked and

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1 J. Crook  
 2 answered. There is an amendment that  
 3 was filed, and it's asked and answered.  
 4 Q. Am I correct?  
 5 A. We filed an amendment. I don't  
 6 understand what you want me to say. I've  
 7 already said the tax return --  
 8 Q. You were wrong.  
 9 A. I was wrong.  
 10 Q. You were wrong. That Mr. Gross  
 11 filed this claim for two million dollars  
 12 characterized as a loan, and yet you knew  
 13 there was no piece of paper anywhere at that  
 14 time that characterized the two million as a  
 15 loan; is that correct?  
 16 MR. NASH: Objection.  
 17 A. It was money owed to Mr. Gross.  
 18 Q. Are capital contributions the same  
 19 as loans in your world?  
 20 MR. NASH: Objection. You're  
 21 arguing with the witness. She said she  
 22 went back --  
 23 MR. ZEMEL: Mr. Nash.  
 24 MR. NASH: No. No. You're arguing  
 25 with the witness. You can't berate and

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1 J. Crook  
 2 argue with the witness. She said she  
 3 was mistaken in the initial  
 4 characterization of it. They filed an  
 5 amendment. She's consulted with the  
 6 accountants on it. They booked it as  
 7 capital contribution is her  
 8 understanding. This is all her  
 9 testimony that it was a loan and it was  
 10 owed to Mr. Gross, and that's why she  
 11 assisted him in making the claim. Now,  
 12 berating her about that is silly since  
 13 she's filed an amendment and she's  
 14 spoken to the accountants, and she went  
 15 back and she told you where she went  
 16 back --  
 17 MR. ZEMEL: She filed Mr. Gross's  
 18 amended --  
 19 MR. NASH: No. It's never been  
 20 filed. I saw it on the internet.  
 21 MR. ZEMEL: No, but you just said  
 22 that this witness filed it. Now you're  
 23 digging a big hole --  
 24 MR. NASH: I'm hardly digging a  
 25 hole, okay. Mr. Gross filed an

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1 J. Crook  
 2 amendment in consultation with the  
 3 witness.  
 4 MR. ZEMEL: All right. So if  
 5 you're done now --  
 6 MR. NASH: Please.  
 7 MR. ZEMEL: -- I would just like to  
 8 get a straight answer.  
 9 MR. NASH: Okay. You got a  
 10 straight answer.  
 11 Q. Is it true that when this claim was  
 12 filed for two million dollars as a loan, you  
 13 had no documentation or support of any kind  
 14 on the books and records of the company to  
 15 reflect that it was indeed a loan?  
 16 MR. NASH: Objection. Asked and  
 17 answered.  
 18 A. Yes.  
 19 Q. And did you have any understanding  
 20 that my client would rely upon the  
 21 information on that claim?  
 22 MR. NASH: Objection. No  
 23 foundation. Beyond the witness's  
 24 knowledge what your client is relying  
 25 upon.

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1 J. Crook  
 2 Q. Did you have any understanding as  
 3 to whether my client --  
 4 A. No.  
 5 Q. -- would rely on those documents?  
 6 A. No.  
 7 Q. Did you have any understanding as  
 8 to whether the court was going to rely on the  
 9 document?  
 10 MR. NASH: Objection. Same  
 11 grounds.  
 12 Q. Ma'am? Did you have any  
 13 understanding --  
 14 A. I don't know. I don't know.  
 15 Q. When you were providing the  
 16 information --  
 17 MR. NASH: Judith, do you want to  
 18 take a break?  
 19 THE WITNESS: Yeah.  
 20 MR. NASH: Okay.  
 21 MR. ZEMEL: I'm sorry. I'm in the  
 22 middle of a question.  
 23 MR. NASH: No.  
 24 MR. ZEMEL: Mr. Nash.  
 25 MR. NASH: You're berating the

<p style="text-align: right;">Page 97</p> <p>1 J. Crook 2 witness for no reason. She's told you, 3 and I asked you to do this in a nice 4 way, but now you're berating the witness 5 and you're going to get her upset. She 6 said she made a mistake in certain 7 areas, which she's corrected. She's 8 spoken to Dr. Cornfeld on numerous 9 occasions. She wasn't supposed to be 10 deposed. That was the agreement. 11 MR. ZEMEL: There was no such 12 agreement. And, Mr. Nash, I really -- 13 MR. NASH: But I don't want her to 14 be upset, Franklin. 15 MR. ZEMEL: All I need are very 16 straightforward answers. If the witness 17 doesn't want -- 18 MR. NASH: She's told you. You're 19 pressing her. She said she made a 20 mistake. End of story. She's corrected 21 it. 22 Q. When you provided the information 23 to Mr. Zlotnick that there was a two million 24 dollar loan, you understood that you had no 25 audit trail or any journal entry of any kind</p>	<p style="text-align: right;">Page 99</p> <p>1 J. Crook 2 know, unless we can ask one question at 3 a time, and, again, Franklin, you asked 4 a compound question there. So why don't 5 you just do one question at a time, you 6 know. She's explained to you twelve 7 times her understanding. 8 Q. Please explain to me what you meant 9 when you just said all you understood was 10 money was owed to Mr. Gross. What does that 11 mean? 12 A. I understood he provided that 13 two million dollar deposit. 14 (Exhibit 3, Proof of Claim filed on 15 or about June 29th of 2010, marked for 16 identification, as of this date.) 17 Q. Now, let me show you what we've 18 marked as Exhibit 3, which is a Proof of 19 Claim that was filed on or about June 29th of 20 2010. Have you seen this document before? 21 A. I'm not sure. 22 Q. Can you tell me in the last 30 days 23 or so have you had any discussions with 24 anyone about Exhibit 2, this original 25 two million dollar proof of claim</p>
<p style="text-align: right;">Page 98</p> <p>1 J. Crook 2 to support that, you understood that 3 Mr. Gross was going to file the proof of 4 claim, did you have any understanding that 5 anybody would be relying upon that document? 6 MR. NASH: Objection. 7 A. I understood money was owed to 8 Mr. Gross, and I understood it was going into 9 the courts. 10 Q. Okay. And because of your 11 accounting background, which is far superior 12 to mine, that's for sure, when you say things 13 like you understood that money was owed to 14 Mr. Gross, okay, I just need to understand 15 what that means. Owed in the sense of it was 16 a loan, owed to Mr. Gross, owed to 17 Mrs. Gross, owed to some other entity? So, 18 you know, I'm just trying to get the facts. 19 When you say all I knew was -- 20 MR. NASH: I'm going to object to 21 that. That's a compound question if I 22 ever heard it. Now, I'm going to ask 23 you to rephrase the question, I'm going 24 to ask the witness to, you know, take a 25 break because she is upset, and, you</p>	<p style="text-align: right;">Page 100</p> <p>1 J. Crook 2 characterized as a loan? 3 A. Yes. 4 Q. Tell me about those conversations, 5 please. 6 A. I was told that the question was 7 asked why wasn't this on the original 8 bankruptcy claim filing. 9 Q. Okay. By the way, did you think 10 that was a fair question for me to ask? 11 A. Yes. 12 Q. And so tell me who asked you that 13 question? 14 A. And I told you I screwed up the 15 first filing is what I did, giving the 16 information. 17 Q. Well, wait, wait, wait, wait, wait. 18 First and foremost, if the two million 19 dollars was shown as a loan on the books and 20 records of the debtor, it would have been on 21 the original bankruptcy schedules. Am I 22 right? 23 MR. NASH: Objection. 24 Q. Am I right? 25 MR. NASH: Objection.</p>

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1 J. Crook  
 2 A. Yes.  
 3 Q. And even if you had --  
 4 A. I'm confused, because we keep going  
 5 over the fact that we submitted it as a loan,  
 6 we resubmitted it saying I made a mistake, it  
 7 was capital, the accountants treated it as  
 8 capital, it was a mistake. And we keep going  
 9 over and over again. What else do you want  
 10 me to say?  
 11 Q. No. I just --  
 12 MR. NASH: Okay, yes. I think you  
 13 said it better than me. We keep going  
 14 over and over again.  
 15 Q. I just want to be clear.  
 16 MR. NASH: That's been clear.  
 17 Q. What you've told me is that on the  
 18 original bankruptcy schedules you looked more  
 19 at the trade receivables and payables rather  
 20 than intercompany transfers. You told me  
 21 that; correct?  
 22 A. Yes.  
 23 Q. And that, I believe, was how you  
 24 explained initially why intercompany loans  
 25 were not listed on the original bankruptcy

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1 J. Crook  
 2 schedules. Am I right so far?  
 3 A. Yes.  
 4 Q. Then you tell me that with respect  
 5 to Exhibit 2, that you had no journal entry,  
 6 no source documentation of any kind  
 7 characterizing the two million as a loan, but  
 8 that's the way that the claim was filed. Am  
 9 I correct?  
 10 MR. NASH: Objection.  
 11 A. Yes, because I had the assets, and  
 12 the assets had to be funded by somebody, and  
 13 I knew it was funded by Mr. Gross.  
 14 Q. So now in or about June of 2010 you  
 15 learn that I've asked the question about why  
 16 the two million was not on the original  
 17 bankruptcy schedules, and that's when you  
 18 started to do research into that issue. Am I  
 19 correct?  
 20 MR. NASH: Objection.  
 21 A. That's when I went -- I went to the  
 22 tax returns.  
 23 Q. Did you first go look at the  
 24 general ledger 2290 to see if there was a  
 25 two million dollar intercompany loan for the

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1 J. Crook  
 2 debtor?  
 3 A. No.  
 4 Q. Did you look at any documents of  
 5 any kind to first confirm that it was, in  
 6 fact, a loan?  
 7 A. You've asked me this ten times. I  
 8 don't have a document.  
 9 Q. No. That wasn't my question. I  
 10 asked a different question.  
 11 MR. NASH: No. You've asked the  
 12 same question.  
 13 A. I'm not understanding the  
 14 subtleties of the question, then, Mr. Zemel.  
 15 Q. When in the last 30 days you  
 16 understood I was questioning this two million  
 17 dollars and you went to research it. My  
 18 question is, did you first go to research  
 19 whether it was, in fact, a loan, or did you  
 20 first go and start pulling tax returns?  
 21 A. I called the accountants. I called  
 22 my accountants and asked them about the  
 23 transaction that was before my time.  
 24 Q. I see. Okay. And is it the same  
 25 accountants now as it was back in 2000?

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1 J. Crook  
 2 A. Yes.  
 3 Q. So now I understand. So you asked  
 4 the accountants --  
 5 A. I asked the accountants.  
 6 Q. -- as to --  
 7 A. Because I don't have those records.  
 8 Q. Okay.  
 9 A. So they went back and found it for  
 10 me.  
 11 Q. And so who did you speak to --  
 12 A. So if I misspoke and said I went  
 13 and looked, I asked them, because they're my  
 14 accountants.  
 15 Q. All right. Things will move along  
 16 much faster. That's all I needed to  
 17 understand. Okay. So who did you speak with  
 18 at the accountants?  
 19 A. Alan Botwonik.  
 20 Q. And he's the man that signs the tax  
 21 returns for the debtor; is that correct? I  
 22 think I've seen his name there before.  
 23 A. He's definitely on some of them. I  
 24 don't know if he signs the current ones.  
 25 Q. So tell me what did you say and

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1 J. Crook  
 2 what did he say about the two million  
 3 dollars?  
 4 A. He said that they treated it as a  
 5 capital contribution. I said I thought it  
 6 was a loan. He said for the tax purposes it  
 7 made no difference, and they treated it as a  
 8 capital contribution. And they did things on  
 9 their own back in those days.  
 10 Q. Who is "they"?  
 11 A. The accountants. I understand we  
 12 would ship them off information, and they  
 13 kept our -- they kept the books and records.  
 14 Q. Now, I've never seen this language  
 15 phrased this way before. Do you have an  
 16 understanding of what it means when it says  
 17 "capital advanced"?  
 18 A. Well, it's English.  
 19 Q. Well, capital advanced, isn't that  
 20 sort of a way of trying to have it both ways  
 21 and try to characterize it as capital and a  
 22 loan?  
 23 MR. NASH: Objection. If you're  
 24 familiar with it, you are. If you  
 25 can't, you can't.

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1 J. Crook  
 2 A. No. That doesn't mean that to me.  
 3 I am not a lawyer. I don't speak  
 4 legal-speak. I'm an accountant.  
 5 Q. Okay. That's why I was just  
 6 asking. So the accountants confirmed for  
 7 you, though, it's not a loan, it was a  
 8 capital contribution?  
 9 A. They treated it as a loan.  
 10 Q. They treated it as a capital --  
 11 A. They treated it as capital.  
 12 Q. Okay. Now I get that, and now I  
 13 understand why this has been filed this way.  
 14 Here's the part that I don't understand now.  
 15 You understood that Mr. Gross made a capital  
 16 contribution of two million dollars --  
 17 MR. NASH: Objection. That's not  
 18 what her initial testimony is. So I  
 19 object to it even before you get it out.  
 20 MR. ZEMEL: Are you finished?  
 21 MR. NASH: You're badgering the  
 22 witness. She said it herself, you've  
 23 answered the question ten times, the  
 24 same question.  
 25 MR. ZEMEL: I'm moving on.

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1 J. Crook  
 2 MR. NASH: She's answered it.  
 3 MR. ZEMEL: I'm moving on to  
 4 another issue.  
 5 MR. NASH: Then please do. Move  
 6 off of the whole proof of claim,  
 7 capital, then you're moving on to  
 8 another issue. If you don't move on to  
 9 another issue, what you're doing,  
 10 Franklin, is just asking the same  
 11 question another way.  
 12 MR. ZEMEL: Are you finished?  
 13 MR. NASH: And you're getting the  
 14 witness upset for no reason.  
 15 MR. ZEMEL: Let me know when you're  
 16 done. I can wait.  
 17 MR. NASH: We'll wait all day.  
 18 MR. ZEMEL: Are you done?  
 19 MR. NASH: You're getting the  
 20 witness upset.  
 21 MR. ZEMEL: Let me know when you're  
 22 finished.  
 23 MR. NASH: Okay.  
 24 Q. Based upon this claim for the  
 25 capital advanced, based upon this, okay, now

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1 J. Crook  
 2 I want to talk about that. So that according  
 3 to the accountants, this two million dollars  
 4 was treated as a capital contribution for all  
 5 these years. That's your understanding;  
 6 correct?  
 7 MR. NASH: Objection.  
 8 A. My understanding as of when, Frank?  
 9 Q. As of now.  
 10 A. I'm sorry. Mr. Zemel.  
 11 Q. As of now. Your understanding --  
 12 because you just spoke with the accountants  
 13 in the last 30 days or so; isn't that right?  
 14 A. Right. My understanding was it  
 15 should have been a loan. They treated it as  
 16 capital. They screwed up, but the tax  
 17 returns reflect it as capital.  
 18 Q. Okay. So contemporary times, okay,  
 19 is that your understanding now is that the  
 20 two million dollars has always been treated  
 21 as a capital contribution according to the  
 22 tax returns of the company; isn't that right?  
 23 A. Yes.  
 24 Q. That's now your understanding;  
 25 right?

<p style="text-align: right;">Page 109</p> <p>1 J. Crook</p> <p>2 A. Yes.</p> <p>3 Q. Okay. I don't want to go back in</p> <p>4 history anymore. So the accountants, as far</p> <p>5 as you know, have always treated it as a</p> <p>6 capital contribution; isn't that right?</p> <p>7 MR. NASH: Objection. Asked and</p> <p>8 answered.</p> <p>9 Q. Just answer it and we'll move on.</p> <p>10 MR. NASH: You just answered it.</p> <p>11 You just asked the same question,</p> <p>12 identical question back to back.</p> <p>13 MR. ZEMEL: I'm just trying to lay</p> <p>14 a predicate.</p> <p>15 MR. NASH: Okay. You've laid the</p> <p>16 predicate. Asked and answered. You can</p> <p>17 answer it.</p> <p>18 Q. Am I correct?</p> <p>19 A. Yes.</p> <p>20 Q. Now, you understood that in or</p> <p>21 about July of 2008 that a purchase and sale</p> <p>22 agreement had been entered into between</p> <p>23 Dr. Cornfeld's entity or company and GFI</p> <p>24 Acquisition for the purchase of Carib and</p> <p>25 Cutlerwood?</p>	<p style="text-align: right;">Page 111</p> <p>1 J. Crook</p> <p>2 deposit for the Carib and Cutlerwood leases,</p> <p>3 was transferred to Dr. Cornfeld, actually</p> <p>4 into his control on the signing of a</p> <p>5 contract, which in itself is pretty amazing</p> <p>6 that we gave two million dollars to somebody</p> <p>7 in good faith assuming this purchase and sale</p> <p>8 agreement would be executed. That was never</p> <p>9 executed. And now we don't have the</p> <p>10 two million dollars.</p> <p>11 Q. I'm sorry. You thought the --</p> <p>12 MR. NASH: She's giving you her</p> <p>13 understanding.</p> <p>14 MR. ZEMEL: Don't yell.</p> <p>15 MR. NASH: She's giving you her</p> <p>16 understanding. Don't interrupt until</p> <p>17 she's done with her understanding, all</p> <p>18 right. Her understanding may be right,</p> <p>19 it may be wrong. You asked for her</p> <p>20 understanding. She's giving you her</p> <p>21 understanding.</p> <p>22 A. So this two million dollars now</p> <p>23 represents a deposit on the purchase and</p> <p>24 sale. And it was given to Dr. Cornfeld in</p> <p>25 good faith that as part of the purchase and</p>
<p style="text-align: right;">Page 110</p> <p>1 J. Crook</p> <p>2 MR. NASH: Objection.</p> <p>3 Q. Isn't that right?</p> <p>4 A. My understanding, if I can tell you</p> <p>5 my understanding --</p> <p>6 Q. Sure.</p> <p>7 A. -- and not what you telling me my</p> <p>8 understanding is.</p> <p>9 Q. I like that.</p> <p>10 A. My understanding is A&amp;M Florida</p> <p>11 Properties or our entities wanted to buy the</p> <p>12 four properties. The doctor agreed to sell</p> <p>13 them to us. We had a purchase and sale</p> <p>14 contract. That was signed by GFI</p> <p>15 Acquisition, which is our standard policy.</p> <p>16 We were in the process of -- that entity</p> <p>17 signs the purchase and sale contracts. It's</p> <p>18 not the entity that's going to acquire the</p> <p>19 properties. It's the vehicle to sign the</p> <p>20 purchase contract. I don't understand the</p> <p>21 legal ramifications, but that's why they're</p> <p>22 on -- my understanding is why they're on the</p> <p>23 purchase and sale agreement. As part of the</p> <p>24 purchase and sale agreement, this two million</p> <p>25 dollars, which was in escrow as a lease</p>	<p style="text-align: right;">Page 112</p> <p>1 J. Crook</p> <p>2 sale, all rents and everything else related</p> <p>3 to rents were up to date, and it was a</p> <p>4 contract deposit on the purchase and sale.</p> <p>5 And to this day I still carry that as a</p> <p>6 deposit because here we are. Nothing has</p> <p>7 happened. He did not sell us the properties.</p> <p>8 And here we are. So there's no resolution.</p> <p>9 To me there's still -- and our books show</p> <p>10 that there's still a deposit out there, which</p> <p>11 is now no longer a lease deposit but a</p> <p>12 purchase and sale contract deposit.</p> <p>13 Q. I want to talk about those journal</p> <p>14 entries. If the accountants are showing that</p> <p>15 the two million dollars is a capital</p> <p>16 contribution on the books of the debtor, at</p> <p>17 some point --</p> <p>18 MR. NASH: Objection.</p> <p>19 MR. ZEMEL: What's the objection?</p> <p>20 MR. NASH: She told you the</p> <p>21 accountants are showing it on the tax</p> <p>22 returns as a capital contribution.</p> <p>23 MR. ZEMEL: Right. That's what I</p> <p>24 just said.</p> <p>25 MR. NASH: Now, you used the word</p>

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1 J. Crook  
 2 books of the debtor. I think her  
 3 testimony was the tax returns, if I'm  
 4 not --  
 5 MR. ZEMEL: All right.  
 6 MR. NASH: Okay. I don't want to  
 7 mix and match. She's also told you,  
 8 Franklin, she disagreed with the  
 9 accountants, but since that's the way  
 10 they carried it, she accepted it.  
 11 MR. ZEMEL: Okay.  
 12 Q. Let me ask you, when I refer to the  
 13 books and records of the company, in your  
 14 mind does that include the tax returns that  
 15 were filed by the accountants?  
 16 A. Yes.  
 17 Q. Okay. And whether you agree with  
 18 it or not isn't my issue. I'm just talking  
 19 about straight bookkeeping. It's just  
 20 bookkeeping. There's a two million dollar  
 21 capital contribution on the books and records  
 22 of the company.  
 23 MR. NASH: Objection.  
 24 Q. That money at some point is used by  
 25 GFI Acquisition as a good faith deposit.

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1 J. Crook  
 2 A. I don't think it's used by GFI  
 3 Acquisition. I think -- to me, that money is  
 4 still owed to A&M Florida Properties. That's  
 5 the deposit that -- I feel that you're  
 6 telling me that my books and records are  
 7 wrong.  
 8 Q. No.  
 9 A. And I'm disagreeing with you. I'm  
 10 saying I've got this deposit still and  
 11 Dr. Cornfeld has got it.  
 12 Q. Let me --  
 13 A. And it's for these two properties.  
 14 It's for this entity. And it's owed back to  
 15 Alan Gross, Edith Gross's capital.  
 16 Q. I'm just trying to understand how  
 17 things were booked. That's all. Okay.  
 18 Carib and Cutlerwood have a two million  
 19 dollar deposit as security for the  
 20 performance of the two leases. You  
 21 understood that; correct?  
 22 A. Yes.  
 23 Q. And according to the books and  
 24 records of the company, that two million  
 25 dollars was booked as a capital contribution?

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1 J. Crook  
 2 MR. NASH: Now I object.  
 3 Q. That's correct; correct?  
 4 MR. NASH: I object. She's  
 5 testified -- hold on. She's testified  
 6 it's on the tax returns. You're using  
 7 the word "booked" as if it's in the  
 8 general ledger. I think her testimony  
 9 was it's not in the general ledger.  
 10 It's reflected on the tax return.  
 11 MR. ZEMEL: Her testimony is that  
 12 the tax returns --  
 13 MR. NASH: This is wrong. This is  
 14 wrong. No. Yes, the tax returns can be  
 15 books and records, but you used the word  
 16 "booked," b-o-o-k-e-d, all right. And  
 17 she's told you that it was reflected on  
 18 the tax returns. It wasn't booked.  
 19 MR. ZEMEL: That's the objection?  
 20 Fine. Okay. That's the objection.  
 21 Q. So we know that the company has  
 22 two million dollars, according to the tax  
 23 returns, as a capital contribution. That  
 24 two million dollars serves as the deposit on  
 25 the two 50-year leases. You understood that;

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1 J. Crook  
 2 correct?  
 3 A. Initially, yes.  
 4 Q. And then you understood at some  
 5 point that the two million dollars would  
 6 actually serve as a good faith purchase  
 7 deposit between GFI Acquisition and  
 8 Dr. Cornfeld to purchase the four properties.  
 9 You understood that; correct?  
 10 A. I understood that the lease deposit  
 11 was, with the agreement of Dr. Cornfeld and  
 12 GFI, was transitioned to a purchase and sale  
 13 deposit.  
 14 Q. How? How on the books and records  
 15 of this company was that --  
 16 A. I did not know until yesterday that  
 17 the purchase and sale was in the name of GFI  
 18 Acquisition.  
 19 Q. Oh.  
 20 A. To me, it's still in these  
 21 entities. You know, I don't deal with the  
 22 purchases and sales. That's somebody else.  
 23 Q. So why is this so complicated?  
 24 A. Because --  
 25 Q. If the answer is that you didn't

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1 J. Crook  
 2 know until yesterday that GFI was  
 3 essentially -- strike that.  
 4 Are you telling me, then, just  
 5 simply that there is no journal entry  
 6 anywhere reflecting what you referred to as  
 7 the transition of the two million dollars  
 8 from Carib Villas --  
 9 A. Yes.  
 10 Q. -- to GFI Acquisition?  
 11 A. It wasn't transferred to GFI  
 12 Acquisition. It went to Dr. Cornfeld, who  
 13 was the landlord, and we're still -- it's  
 14 still -- there's no journal entry to reflect  
 15 any transfer. It was a name change. In my  
 16 mind, it was just a name change.  
 17 Q. All right. So now I understand why  
 18 there's no intercompany transfer under GL  
 19 2290 for that two million dollars between the  
 20 debtor and GFI Acquisition, because you just  
 21 didn't know, I guess, that one needed to be  
 22 made or should have been made or -- I don't  
 23 know how to -- I don't want to testify for  
 24 you.  
 25 MR. NASH: Objection.

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1 J. Crook  
 2 Q. You just didn't make a journal  
 3 entry for that; is that right?  
 4 A. Correct.  
 5 Q. Okay. That's really all I needed  
 6 to know on that.  
 7 MR. NASH: She told you that from  
 8 the start there was no journal entry.  
 9 MR. ZEMEL: No. No. That's not  
 10 true.  
 11 MR. NASH: What I'm going to do,  
 12 I'm going to ask you if we can break for  
 13 lunch at this point.  
 14 THE WITNESS: How much longer is  
 15 it?  
 16 MR. NASH: Is it one o'clock?  
 17 MR. ZEMEL: It's 1:15. I could  
 18 probably finish in probably an hour if  
 19 we just move along.  
 20 THE WITNESS: An hour?  
 21 MR. ZEMEL: Um-hmm. I'd prefer to  
 22 just work through lunch and be done. Or  
 23 if you want to order something up, but  
 24 let's --  
 25 MR. NASH: Do you want a break or

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1 J. Crook  
 2 are you okay?  
 3 THE WITNESS: No. I would rather  
 4 get it over and done with.  
 5 MR. NASH: Okay. Fair enough.  
 6 Q. Now, with respect to the amended  
 7 summary of schedules which were just filed,  
 8 what was your participation in preparing the  
 9 amended schedules?  
 10 A. I went through the list of  
 11 creditors and made note and had conversations  
 12 with Dr. Cornfeld about what had subsequently  
 13 been paid very close to the filing the  
 14 bankruptcy and took those off. I identified  
 15 how much you've been paid. So as of now,  
 16 there's no point in there being a claim there  
 17 because they're being paid.  
 18 Q. Let me ask it a little differently,  
 19 then.  
 20 A. I think you should tell me what you  
 21 want me to say.  
 22 Q. I prefer to just have a  
 23 conversation.  
 24 MR. NASH: Okay, but you tried that  
 25 with Dr. Cornfeld. That didn't work,

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1 J. Crook  
 2 okay.  
 3 Q. What did you do to determine  
 4 whether there are any other intercompany  
 5 loans or any other obligations owed to any  
 6 affiliate or insider? In other words --  
 7 A. Well, all I looked at was the  
 8 February proof of claims. I was asked -- I  
 9 was asked specifically by your office or by  
 10 you to provide backup for the proof of claims  
 11 that were filed.  
 12 Q. Yes. No, what I'm saying is that  
 13 you told me that on the original bankruptcy  
 14 schedules, you did not look at intercompany  
 15 transfers, okay, which is why they weren't on  
 16 the original schedules. That's what you've  
 17 told me. My question is, for purposes of  
 18 these amended schedules, what did you do?  
 19 Did you look at everything now?  
 20 A. I looked at the claims that we  
 21 filed in -- that were filed, some of which  
 22 were filed by us in February. That's what I  
 23 looked at. I didn't look for any more. I  
 24 looked to see what had been paid since the  
 25 first filing was done.

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1 J. Crook  
 2 Q. That was my question. So you  
 3 haven't searched if there's any other --  
 4 A. No.  
 5 Q. -- claims or loans or anything out  
 6 there of any kind other than the claims that  
 7 were filed?  
 8 A. Yes.  
 9 Q. Okay. Now, can you tell me does  
 10 Greenberg Traurig provide any legal services  
 11 of any kind to GFI Management Services, Inc.?  
 12 A. Yes, they do.  
 13 Q. Tell me about that. What services  
 14 do they provide?  
 15 A. They're a law firm. They provide  
 16 legal services.  
 17 Q. Do they do that currently, I mean  
 18 contemporarily?  
 19 A. Yes.  
 20 Q. And do you know whether they  
 21 provide legal services to GFI Management  
 22 Services, Inc.? Do you know that?  
 23 A. I don't know.  
 24 Q. But you know that generally they're  
 25 providing services to I guess the GFI

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1 J. Crook  
 2 entities itself? That you understand;  
 3 correct?  
 4 A. Projects, yes.  
 5 Q. And you understood that Greenberg  
 6 Traurig, according to your schedules, is owed  
 7 roughly \$54,000. Do you remember that?  
 8 A. Yes.  
 9 Q. And can you tell me has that been  
 10 paid?  
 11 A. I think it's still outstanding.  
 12 Q. Okay. I'm just asking if you know  
 13 if it's been paid. And looking at the check  
 14 summary that's attached to the amended  
 15 summary of schedules that was just filed, I  
 16 don't think I need to make it an exhibit  
 17 here, but I wanted you to just look at these  
 18 entries in June of 2009. See all of these  
 19 transactions relating to Greenberg Traurig?  
 20 A. Yes.  
 21 Q. Do you have an understanding as to  
 22 what those are?  
 23 A. Well, they would be legal services  
 24 from Greenberg Traurig. They provide legal  
 25 service.

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1 J. Crook  
 2 Q. On behalf of A&M Florida  
 3 Properties?  
 4 A. Yep.  
 5 Q. So that in June of 2009, roughly  
 6 \$130,000 was paid to Greenberg Traurig?  
 7 A. Yes. They bill us, and we pay  
 8 every six months. We do -- they bill us.  
 9 Q. Now, I know that I gave you very  
 10 short notice on gathering additional  
 11 documents, and I didn't expect for you to  
 12 have them for me today. Have you begun the  
 13 process?  
 14 A. Yes.  
 15 Q. When do you think those documents  
 16 would be available?  
 17 A. I have some of them now, and some  
 18 of them you'll never get because they're too  
 19 old. It's ten years ago. We do not have  
 20 records from ten years ago. We're not  
 21 required to keep them for that long.  
 22 (Exhibit 4, Three-page document  
 23 first page entitled "JVL Supply," marked  
 24 for identification, as of this date.)  
 25 Q. Let me show you what I marked as

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1 J. Crook  
 2 Exhibit Number 4. Are you familiar with a  
 3 supplier called JVL Supply?  
 4 A. JVL. Not really.  
 5 Q. Is there a procedure in place so  
 6 that expenses to particular properties in  
 7 Florida are charged only to the property in  
 8 which the services were provided?  
 9 A. We have review procedures. Things  
 10 are rented, they're approved, and they get  
 11 paid.  
 12 Q. Tell me about the review  
 13 procedures.  
 14 A. Property managers approve the  
 15 invoices. Typically a property supervisor  
 16 person would approve the invoices, and then  
 17 checks get cut, and an AP supervisor reviews  
 18 the check and the backup.  
 19 Q. Do you have the check register for  
 20 Carib Villas here? I think I just saw  
 21 Mr. Nash had it in his file.  
 22 MR. NASH: No. It's the schedules.  
 23 MR. ZEMEL: The schedules include  
 24 the check register, do they not?  
 25 MR. NASH: The same one you have

<p style="text-align: right;">Page 125</p> <p>1 J. Crook</p> <p>2 there.</p> <p>3 MR. ZEMEL: I don't have the check</p> <p>4 register here.</p> <p>5 MR. NASH: It's in your notebook.</p> <p>6 You just asked her a question about it.</p> <p>7 Q. Do these check numbers represent</p> <p>8 the DIP check numbers?</p> <p>9 A. I don't know what you're looking</p> <p>10 at.</p> <p>11 Q. The check numbers are different.</p> <p>12 These check numbers.</p> <p>13 A. What do you mean they're different?</p> <p>14 What's different about them?</p> <p>15 Q. No, I'm asking. Is there a</p> <p>16 difference between -- is there an internal</p> <p>17 check number versus the actual check number</p> <p>18 on the physical check that would have been</p> <p>19 written?</p> <p>20 MR. NASH: Do you understand the</p> <p>21 question?</p> <p>22 THE WITNESS: No.</p> <p>23 Q. In other words, would the check</p> <p>24 number on a physical check --</p> <p>25 A. The check number is generated --</p>	<p style="text-align: right;">Page 127</p> <p>1 J. Crook</p> <p>2 the DIP account for Carib Villas?</p> <p>3 A. No. Somebody has made a note here</p> <p>4 that indicates that it was, but.</p> <p>5 Q. That's not my handwriting. Do you</p> <p>6 recognize this general ledger?</p> <p>7 A. This is Carib Villas' general</p> <p>8 ledger.</p> <p>9 Q. Does that general ledger indicate</p> <p>10 that these two invoices for Landmark Towers</p> <p>11 were paid for by Carib Villas?</p> <p>12 A. Yeah.</p> <p>13 Q. Is that yes?</p> <p>14 A. That's a yes.</p> <p>15 Q. Can you explain that?</p> <p>16 A. Human error. That's all I can put</p> <p>17 it down to. It must have been a mistake.</p> <p>18 We, umm...</p> <p>19 MR. NASH: That's it. If you know</p> <p>20 about it, you know about it.</p> <p>21 A. Payable person must have</p> <p>22 accidentally picked the wrong entity. I'll</p> <p>23 make a note of them, and we'll have to</p> <p>24 reimburse.</p> <p>25 MR. NASH: Well, you'll make a note</p>
<p style="text-align: right;">Page 126</p> <p>1 J. Crook</p> <p>2 the check numbers are generated by the</p> <p>3 accounting system.</p> <p>4 Q. Let me ask you to look at</p> <p>5 Exhibit 4. Now, Exhibit 4 on the second</p> <p>6 page, you recognize that as an invoice -- do</p> <p>7 you see where it says "Bill to Landmark</p> <p>8 Tower"? Do you see that?</p> <p>9 A. I do.</p> <p>10 Q. That's one of your other</p> <p>11 properties; is that correct?</p> <p>12 A. Yep.</p> <p>13 Q. And do you see that there was a</p> <p>14 heat circuit board carrier for \$900 and an</p> <p>15 invoice submitted for Landmark Towers. Do</p> <p>16 you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Then if you look at next page, also</p> <p>19 from JVL Supply, you'll see a number of items</p> <p>20 and services that were provided to Landmark</p> <p>21 Towers for approximately \$1280 more. Do you</p> <p>22 see that?</p> <p>23 A. Yes.</p> <p>24 Q. Do you know whether or not those</p> <p>25 monies for those two invoices were paid from</p>	<p style="text-align: right;">Page 128</p> <p>1 J. Crook</p> <p>2 of them. You'll investigate to see if</p> <p>3 it's even accurate, and you'll see what</p> <p>4 happened. Maybe this stuff went to</p> <p>5 Carib Villas.</p> <p>6 THE WITNESS: Okay.</p> <p>7 MR. NASH: Maybe it didn't go.</p> <p>8 We'll understand it.</p> <p>9 (Exhibit 4-A, Page from General</p> <p>10 Ledger, marked for identification, as of</p> <p>11 this date.)</p> <p>12 (Exhibit 4-B, Page from General</p> <p>13 Ledger, marked for identification, as of</p> <p>14 this date.)</p> <p>15 MR. ZEMEL: I'm just for the record</p> <p>16 going to mark these two pages of the</p> <p>17 general ledger as Exhibits 4-A and 4-B.</p> <p>18 MR. NASH: It's all of \$1200 on a</p> <p>19 ledger entry of hundreds of different</p> <p>20 items.</p> <p>21 (Exhibit 5, Five-page document,</p> <p>22 first page entitled "HD Supply</p> <p>23 Facilities Maintenance, Inc.", marked</p> <p>24 for identification, as of this date.)</p> <p>25 Q. Do you have an understanding what</p>

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1 J. Crook  
 2 HD Supply Facilities Maintenance, Inc., is?  
 3 A. Home Depot.  
 4 Q. Part of this composite Exhibit  
 5 Number 5 includes two pages of the general  
 6 leverage for Carib Villas, pages 463 and 481.  
 7 Do you recognize that as the general ledger  
 8 from Carib Villas?  
 9 A. It says Carib Villas.  
 10 Q. Now, what we're questioning are the  
 11 following pages, the rest of this composite  
 12 Exhibit Number 5. It would seem to indicate  
 13 that over \$5,000 of charges to Landmark have  
 14 been charged to Carib Villas. Do you see  
 15 that?  
 16 A. What does this -- what is this?  
 17 Q. That, according to my  
 18 understanding, is a screen printout provided  
 19 by Home Depot to our client.  
 20 MR. NASH: Well, this is the first  
 21 we've ever seen it.  
 22 MR. ZEMEL: Of course.  
 23 MR. NASH: You don't even know what  
 24 it is. We'll look into it. Why don't  
 25 you give us the list of the transactions

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1 J. Crook  
 2 you want us to look into, we can mark  
 3 them, and we'll come up with an answer.  
 4 I don't think it's fair to show a Home  
 5 Depot printout, maybe it's right, maybe  
 6 it's wrong, with your internal  
 7 handwriting on it. So if you have some  
 8 issues that you want us to look into, we  
 9 will look into it.  
 10 MR. ZEMEL: Okay.  
 11 Q. My only question was does this  
 12 indicate, I didn't ask to confirm it, does  
 13 this indicate to you that \$5,000 of charges  
 14 to Landmark were charged against Carib  
 15 Villas?  
 16 MR. NASH: Objection.  
 17 A. Well, it indicates that we cut a  
 18 check from Carib for \$5,000, but I don't, you  
 19 know, I'm not familiar with this. I couldn't  
 20 say. I don't have the --  
 21 Q. I understand.  
 22 A. There's no invoices.  
 23 Q. So you're going to research that?  
 24 A. I'd have to research it.  
 25 (Exhibit 6, Document relating to

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1 J. Crook  
 2 Amerihome Remodeling, Inc., marked for  
 3 identification, as of this date.)  
 4 Q. Let me show you what I've marked as  
 5 composite Exhibit Number 6. Are you familiar  
 6 with a company called Amerihome Remodeling,  
 7 Inc.?  
 8 A. It sounds familiar.  
 9 Q. There are a dozen or so invoices  
 10 which we've identified as invoices for work  
 11 done or performed at Landmark Towers, which,  
 12 according to your general ledger, also here  
 13 on your exhibit, were paid for out of Carib  
 14 Villas. Can you take a look at that, please,  
 15 and tell me if you agree.  
 16 A. I don't find -- I'm not finding  
 17 this first one, 2738. 27. I don't see this  
 18 one.  
 19 Q. Try the next one. Each one is  
 20 ticked off in the general ledger.  
 21 A. Well, these are highlighted. I  
 22 don't see that number. I don't see this  
 23 invoice number or these amounts in here.  
 24 Q. Let me see it. I think there's two  
 25 things going here. I might be missing a page

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1 J. Crook  
 2 four 2738, but here's invoice number 2775.  
 3 MR. NASH: Well, if you're missing  
 4 a page --  
 5 A. Well, you don't see the first one.  
 6 MR. NASH: Why don't you give her a  
 7 complete document, and she'll look into  
 8 it for you.  
 9 Q. And invoice 27 -- see, here are the  
 10 invoice numbers here.  
 11 A. Yes. I just said 2738 isn't there.  
 12 Q. Right. I don't see that. I think  
 13 I'm just missing one page of the general  
 14 ledger. I think that's why. But the other  
 15 invoices --  
 16 A. Oh, there's a mistake, is it?  
 17 Sorry.  
 18 Q. Okay. Can you explain how it could  
 19 be with the review processes in place that  
 20 there could be so many --  
 21 MR. NASH: Objection.  
 22 Q. -- invoices to this particular  
 23 vendor that were for work performed at  
 24 Landmark that were charged to Carib Villas?  
 25 A. I cannot.

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1 J. Crook  
 2 MR. NASH: We're going to look into  
 3 it.  
 4 A. I can't.  
 5 MR. NASH: You're assuming that it  
 6 was performed at Landmark. We will look  
 7 into it. And it's hardly so many. Do  
 8 you want us to look into that one? You  
 9 put it on the floor.  
 10 MR. ZEMEL: Those are exhibits.  
 11 MR. NASH: Why aren't they on the  
 12 table, then?  
 13 MR. ZEMEL: I'm sorry. Do you have  
 14 a bigger table?  
 15 MR. NASH: It's a pretty big table,  
 16 Franklin.  
 17 (Exhibit 7, Document relating to  
 18 Joseph Contracting, Inc., marked for  
 19 identification, as of this date.)  
 20 Q. Let me show you what we've marked  
 21 as Exhibit Number 7. Now, Exhibit Number 7  
 22 includes 28 invoices from a vendor known as  
 23 Joseph Contracting Corp. Do you know that  
 24 vendor?  
 25 A. Yes, I've heard of that vendor.

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1 J. Crook  
 2 Q. And take a look at this composite  
 3 exhibit, and you'll notice that with respect  
 4 to these invoices, each one has the mark  
 5 showing that it was received by the local  
 6 property manager and then received here in  
 7 New York. Isn't that what those received  
 8 stamps indicate?  
 9 A. This is accounting, yes.  
 10 Q. Each one of these has two stamps.  
 11 One would indicate it was received on the  
 12 inbound by the on-site property manager, and  
 13 the second one would indicate when it was  
 14 received here in New York; isn't that right?  
 15 At least that's the way Mr. Mehlman --  
 16 A. Yes.  
 17 Q. -- explained to me the way it  
 18 works.  
 19 A. Yeah.  
 20 Q. And if you look at those invoices,  
 21 do you see that there is all sorts of work,  
 22 construction work being done on Landmark  
 23 apartments according to these invoices?  
 24 A. Yeah.  
 25 Q. And you can also see from the

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1 J. Crook  
 2 general ledger that this amount of money, I  
 3 forget how much, 12,000, whatever it is, was  
 4 paid for out of Carib Villas during the  
 5 bankruptcy. Do you see that?  
 6 A. Yes. I can't explain it.  
 7 Q. Okay. That answers my next  
 8 question.  
 9 MR. ZEMEL: Let's do this. Let's  
 10 take five minutes. During that break  
 11 can I ask you, please, to inventory all  
 12 of the exhibits and make sure we have  
 13 them in the right order. And in the  
 14 meantime, I'm going to see how much  
 15 more, if anything, I have left, because  
 16 obviously we're not going to finish  
 17 today because I know that you're going  
 18 to go and research some things for me,  
 19 and there's some more documents, of  
 20 course, that I need as well. But I may  
 21 be done for today. Should we take five  
 22 minutes?  
 23 THE WITNESS: I guess.  
 24 (Recess taken from 1:40 p.m. to  
 25 1:52 p.m.)

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1 J. Crook  
 2 Q. Can you tell me, please, what is  
 3 the procedure in place relating to the  
 4 regional managers in Florida being paid? How  
 5 does that work?  
 6 A. The property supervisor?  
 7 Q. Well, my understanding is you have  
 8 an on-site property manager which gets paid  
 9 out of the particular property itself; is  
 10 that correct?  
 11 A. Yes.  
 12 Q. Then you have a supervisory level  
 13 above that, and that person I thought was  
 14 called like a regional manager. Do you know  
 15 what the title is?  
 16 A. No. To me -- the property  
 17 supervisors?  
 18 MR. NASH: If you know, you know.  
 19 If you don't know, you don't know.  
 20 Q. So the property supervisor would be  
 21 supervising several different properties in a  
 22 geographical area; is that correct?  
 23 A. Yes. In a close region.  
 24 Q. Yes. Right. And then above that  
 25 you have must be the regional manager in

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1 J. Crook  
 2 charge of like the whole state of Florida, I  
 3 guess, is the way Mr. Mehlman explained it.  
 4 MR. NASH: Objection.  
 5 Q. With respect to the person that  
 6 supervises the on-site property managers for  
 7 a given area, how is their compensation  
 8 handled?  
 9 A. In Florida and in the other regions  
 10 the property supervisors are paid out of GFI  
 11 Management for confidentiality reasons, and  
 12 they are allocated to the properties on a  
 13 per unit basis. The cost. The cost is  
 14 allocated. They're on-site property  
 15 supervisors that are hands-on and, you know,  
 16 supervise a handful of properties.  
 17 Q. I mean I understand the concept,  
 18 which is if somebody is supervising five  
 19 properties and 500 units, that their salary  
 20 would be fairly apportioned in some fashion  
 21 amongst the five properties. I mean --  
 22 A. Yeah.  
 23 Q. -- that's the concept. Am I right?  
 24 A. Yes.  
 25 Q. And you're telling me that that

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1 J. Crook  
 2 supervisor's position, his salary is paid for  
 3 through GFI Management Services, Inc., and  
 4 then at some point there's I guess adjusting  
 5 entries?  
 6 A. There's -- I believe we gave you  
 7 one such schedule, because it was on the  
 8 proof of claim. So it's allocated on a  
 9 monthly basis based on the number of units in  
 10 the property. It's a very common way to  
 11 allocate costs.  
 12 Q. If that process is being adhered  
 13 to, would I expect to see payments from Carib  
 14 Villas or even Palm Gardens to the  
 15 supervisory people directly paying their  
 16 salaries?  
 17 A. No.  
 18 Q. So I shouldn't expect to see that?  
 19 That's a terrible question. Don't answer it,  
 20 because I asked it in the negative.  
 21 Are you aware of whether or not  
 22 there are supervisory employees whose  
 23 entire --  
 24 A. There is one, we have one -- had  
 25 one supervisor, we don't anymore, in Florida.

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1 J. Crook  
 2 Q. And that person's name was what?  
 3 A. Pamela Albright. She was the  
 4 property supervisor. Different regions give  
 5 themselves different names, but.  
 6 Q. Do you know an employee by the name  
 7 of Manuel Neira, N-e-i-r-a?  
 8 A. No. I don't know him.  
 9 Q. Or Ramone Rivero Perez?  
 10 A. No. I've seen Manuel's name  
 11 before. I review payroll just looking for  
 12 big mistakes, but.  
 13 Q. I'm just trying to understand what  
 14 this is. Let me just mark this as Exhibit 8.  
 15 (Exhibit 8, Four-Page document,  
 16 Daily Category Report, GFI Management  
 17 Services, Inc., marked for  
 18 identification, as of this date.)  
 19 Q. Can you explain to me what is this  
 20 document?  
 21 MR. NASH: If you know.  
 22 A. Never seen it before.  
 23 Q. Never?  
 24 A. Never.  
 25 Q. Okay.

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1 J. Crook  
 2 A. Oh. Okay. I know what this is.  
 3 This is -- it's not a report that I run, but  
 4 it's from our time management system. We  
 5 have a time management system.  
 6 Q. Which links to the payroll system  
 7 if I'm correct?  
 8 A. Which uploads to payroll, yes.  
 9 Q. And what this document reflects --  
 10 this would be like a standard report for all  
 11 of the properties that are linked to that  
 12 payroll system; isn't that right?  
 13 MR. NASH: Let me see it.  
 14 A. Well, it's a report that's in the  
 15 payroll system that you may run if you want  
 16 to. The hours are imported into Paychecks.  
 17 We don't run and reenter them.  
 18 Q. What's the name of the time --  
 19 A. Stromberg.  
 20 Q. Stromberg?  
 21 A. Um-hmm.  
 22 Q. And that links directly into a  
 23 payroll system?  
 24 A. We upload the time records into --  
 25 the hours into the payroll system.

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1 J. Crook  
 2 Q. Is that like an outsourced payroll  
 3 company that handles that?  
 4 A. Yes.  
 5 Q. Which company is that?  
 6 A. Paychecks.  
 7 Q. Paychecks. So now I understand.  
 8 Can you tell me are there any checks in place  
 9 to ensure that an employee that works  
 10 full-time let's say at Landmark doesn't get  
 11 paid out of say Carib Villas or Palm Gardens  
 12 or some other property?  
 13 A. Well, my understanding of the  
 14 system, I'm not involved in the HR and the  
 15 new hire process. As controller, I have an  
 16 interest in the dollars going out of the  
 17 door, but the regionals, the regions submit  
 18 new hire paperwork or whatever, and people  
 19 get put onto the appropriate payroll, and  
 20 then the sites submit the hours. The site --  
 21 I think the property managers, I don't think  
 22 they use -- I think the property managers at  
 23 the sites enter the hours for their  
 24 employees.  
 25 Q. The on-site property manager does?

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1 J. Crook  
 2 A. The on-site people, yes.  
 3 Q. And so is there any way --  
 4 A. And then it gets approved by the  
 5 supervisor.  
 6 Q. And then that has to be approved  
 7 here in New York; isn't that right?  
 8 A. And then it gets processed here in  
 9 New York. The supervisors are the ones  
 10 actually approving the hours.  
 11 Q. And so on the last two pages of  
 12 this exhibit, can you tell me what this is?  
 13 Do you notice the web link at the bottom of  
 14 the page? That comes out of the GFI system,  
 15 does it not?  
 16 A. Well, it's a web-based program, so  
 17 the site managers go in on a biweekly basis.  
 18 I don't think they do it daily. Some of our  
 19 sites actually have like time clocks that  
 20 people will clock into. But in Florida I  
 21 don't think they're using that. So the  
 22 manager is responsible for tracking hours and  
 23 entering them into the system. And then, you  
 24 know, payroll comes out of that.  
 25 Q. Are there any checks in place that

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1 J. Crook  
 2 would prevent an on-site manager from pushing  
 3 in 40 hours of work for an employee who  
 4 worked on a completely different property  
 5 managed by GFI Management Services?  
 6 A. Why would they do that?  
 7 Q. So, in other words, as far as you  
 8 know, that would not be permitted; is that  
 9 correct?  
 10 A. Well, if they enter into the hours,  
 11 you know, my assumption is that they work in  
 12 that property.  
 13 Q. And sitting here, are you aware of  
 14 whether or not there are any employees that  
 15 have been paid for by Palm Gardens for work  
 16 performed on say Landmark?  
 17 A. I'm not aware of any.  
 18 Q. And if employees, again, if they  
 19 were higher up, then their pay would only  
 20 come from GFI Management Services, Inc., and  
 21 then it would be apportioned on a per unit  
 22 basis?  
 23 A. Correct.  
 24 Q. And where in the general ledger or  
 25 where would I see entries showing that

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1 J. Crook  
 2 adjustment? Where would I see that?  
 3 A. It's in a separate GL account.  
 4 Q. With respect to the monthly  
 5 operating statements that have been filed  
 6 during the bankruptcy, would I find those  
 7 entries in there?  
 8 A. (Indicating).  
 9 Q. I would?  
 10 A. Yes. Well, you'd see the category.  
 11 You would see the line item on the income  
 12 statement. The bankruptcy monthly filings  
 13 don't have general ledgers submitted.  
 14 Q. That's my point. So we would just  
 15 see how much payroll was being charged to the  
 16 debtor. We would not know from looking at  
 17 those operating reports the specific  
 18 employees that performed the services?  
 19 A. No.  
 20 Q. And we would not see whether  
 21 supervisory or regionals, whether their pay  
 22 would have been apportioned in some way to  
 23 the debtor?  
 24 A. You would.  
 25 Q. Not in those operating reports?

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1 J. Crook  
 2 A. You would, because the  
 3 apportionment of the supervisor goes into a  
 4 separate line item on the income statement.  
 5 Q. And that's in the operating  
 6 reports?  
 7 A. Yes.  
 8 Q. You know what, I looked for that,  
 9 and I just didn't see it. Not to say that  
 10 it's not there.  
 11 A. I think it's 6610 or 20.  
 12 Q. I need my other notebook. Can you  
 13 please get for me a report breaking down the  
 14 audit trail, if you will, of all of the  
 15 payroll for Carib Villas and Cutlerwood since  
 16 the filing of the date of the petition until  
 17 the time -- I guess it was in March.  
 18 MR. NASH: Just put that request to  
 19 me in writing so I can review it.  
 20 MR. ZEMEL: I'll put that in  
 21 writing.  
 22 Q. Is that something that can be done  
 23 fairly easily?  
 24 A. You want the payroll records for  
 25 Carib Villas and Cutlerwood.

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1 J. Crook  
 2 Q. I want to be able to confirm, if  
 3 you will -- we'll just talk. What I want to  
 4 be able to confirm is that for the money  
 5 that's been paid by Carib Villas for payroll,  
 6 I want to confirm that that money was paid  
 7 for employees who actually worked at Carib or  
 8 at Cutlerwood. That's what I want to see.  
 9 And, similarly, I want to know that same  
 10 thing for Palm Gardens. I don't think I'm  
 11 asking for a lot. I don't think it's  
 12 complicated. And I also need to see what's  
 13 not in the operating statements, which is  
 14 with respect to the higher level employees  
 15 whose payroll is apportioned in some fashion,  
 16 I need to see those entries so I can see how  
 17 that was apportioned.  
 18 MR. NASH: Just put it in writing.  
 19 We'll get back to you. I want to make a  
 20 copy of this.  
 21 MR. ZEMEL: Yeah. By the way,  
 22 here's an extra copy of the exhibits.  
 23 MR. NASH: A full copy?  
 24 MR. ZEMEL: Yeah. These are  
 25 copies. And the reporter has the full

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1 J. Crook  
 2 set as well. But these are full copies  
 3 of the Home Depot papers, the Amerihome  
 4 papers, Joseph Contracting papers, and I  
 5 don't have an extra set of -- wait a  
 6 minute. I don't have an extra set of  
 7 the JVL papers. Wait a minute. Yes, I  
 8 do. So here's an extra set for you in  
 9 any event, and as you can appreciate --  
 10 well, I guess we'll just sit and stare  
 11 at each other since Mr. Nash I guess  
 12 left.  
 13 MR. NASH: Okay. Are we ready?  
 14 Q. Does GFI Management Services manage  
 15 a property in Carol City, Florida?  
 16 A. Yes.  
 17 Q. And does GFI Management Services  
 18 also manage a property called Crystal Lake or  
 19 in Crystal Lake?  
 20 A. Yes.  
 21 Q. What kind of property is Crystal  
 22 Lakes? What's the property called?  
 23 A. Crystal Lakes.  
 24 Q. Oh, it is called Crystal Lake. And  
 25 I'm really just wrapping up. I really am.

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1 J. Crook  
 2 The supervisory type employees that you say  
 3 are paid from out of GFI, do they enter or  
 4 does anyone enter on their behalf time into a  
 5 time clock or time computer system, or are  
 6 they just sort of salaried?  
 7 A. They're salaried.  
 8 Q. So there's really no way that a  
 9 supervisory level employee could be paid for  
 10 directly out of the debtor?  
 11 MR. NASH: Objection.  
 12 Q. Is that right?  
 13 A. We had, as I said, we had one  
 14 supervisor in Florida, and she was paid out  
 15 of GFI Management.  
 16 Q. Yeah, but GFI is not the debtor.  
 17 That's the point. In other words, if I'm  
 18 looking at the check register, if you will,  
 19 since the bankruptcy, I would not expect to  
 20 see any payments made as payroll to any  
 21 supervisory type employee; is that correct?  
 22 A. Would be to Management, to GFI  
 23 Management. I'm not understanding what  
 24 you're --  
 25 Q. No. We're saying exactly the same

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1 J. Crook  
 2 thing. In other words, because they're paid  
 3 out of GFI Management Services, Inc., I would  
 4 not see a check from the debtor to that  
 5 particular supervisory employee; isn't that  
 6 right?  
 7 A. Right.  
 8 Q. And is there any way that an  
 9 employee at let's say the Crystal Lake  
 10 property could have been on the Palm Gardens  
 11 payroll for two years and paid for entirely  
 12 out of Palm Gardens? Is there any way that  
 13 could have happened?  
 14 A. No, that doesn't sound right. It  
 15 doesn't make any sense to me at all.  
 16 MR. ZEMEL: Well, I'm adjourning,  
 17 as we discussed earlier, because we're  
 18 not done, but --  
 19 MR. NASH: Well, why aren't we  
 20 done? We went over with Dr. Cornfeld --  
 21 the whole supposition of this was that  
 22 we were going to deal with Dr. Cornfeld  
 23 directly with Judith. She's done that.  
 24 And, you know, it's just, you know,  
 25 Dr. Cornfeld calls her. He's called her

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1 J. Crook  
 2 in the last day or two. She's answering  
 3 questions. If you don't want  
 4 Dr. Cornfeld to call anymore, just tell  
 5 me, but we should be done.  
 6 MR. ZEMEL: There's more documents,  
 7 Ms. Crook, which I know you're going to  
 8 gather for me, and I want to be able to  
 9 see those. And there's at least four  
 10 I'll call them problems or issues which  
 11 you're going to research for me as well.  
 12 MR. NASH: But we don't need a  
 13 deposition for that. We can respond to  
 14 you in writing what our research  
 15 indicates.  
 16 MR. ZEMEL: Please don't interrupt.  
 17 Please don't interrupt me.  
 18 I've also given you Exhibit  
 19 Number 8 so that you can research for  
 20 me, if you would, please, this Manuel  
 21 Neira and this Ramone Rivero Perez,  
 22 which, as I understand it, Mr. Neira has  
 23 been on the Palm Gardens payroll for  
 24 more than two years, but he works at  
 25 Crystal Lakes, and that Ramone Rivero

Page 151

1 J. Crook  
 2 Perez works at Carol City.  
 3 MR. NASH: First of all, Palm  
 4 Gardens isn't even part of this 2004  
 5 examination.  
 6 MR. ZEMEL: I understand that.  
 7 MR. NASH: Good.  
 8 MR. ZEMEL: My understanding is  
 9 that he works as an electrician at Carol  
 10 City and he does work at Palm Gardens,  
 11 but he's paid for by Carib Villas.  
 12 That's my understanding from my notes.  
 13 So this is what I'm asking you to do.  
 14 If you look at that schedule, you'll see  
 15 he's paid for out of A&M Florida  
 16 Properties II.  
 17 THE WITNESS: Which is Palm  
 18 Gardens.  
 19 MR. ZEMEL: Which is Palm Gardens.  
 20 But, anyway, just research that.  
 21 THE WITNESS: You said he was paid  
 22 out of Carib Villas?  
 23 MR. ZEMEL: I think that's my  
 24 understanding. This shows --  
 25 THE WITNESS: I looked at --

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1 J. Crook  
 2 Dr. Cornfeld asked me about those two  
 3 yesterday.  
 4 MR. ZEMEL: Oh, he did.  
 5 MR. NASH: See, this is not fair.  
 6 He's still asking the same questions.  
 7 It's really not fair, Franklin.  
 8 THE WITNESS: And they are both on  
 9 the Palm Gardens payroll.  
 10 MR. ZEMEL: Did he discuss with you  
 11 that those employees don't work at Palm  
 12 Gardens? Did he mention that to you?  
 13 THE WITNESS: Well, he said he  
 14 thought -- he was a bit confused, but  
 15 that this guy Manuel Neira, he called  
 16 him a property supervisor, and he's a  
 17 maintenance guy according to the payroll  
 18 records, so.  
 19 MR. ZEMEL: But that's what I'm  
 20 saying. Did he ask you to look into  
 21 this?  
 22 THE WITNESS: Yes. And all I --  
 23 you know, I looked at the payroll  
 24 records to see whose payroll they were  
 25 on. And I confirmed that they were on

Page 153

1 J. Crook  
2 -- they are on Palm Gardens' payroll.  
3 MR. ZEMEL: But didn't he tell you  
4 the reason he was questioning it is  
5 because it's his understanding that  
6 those employees don't work for Palm  
7 Gardens? Isn't that why he was asking  
8 you what these two entries were?

9 THE WITNESS: Well, I didn't see  
10 these entries. We had a phone  
11 conversation. So he was saying he had  
12 been told by somebody that they worked  
13 at other properties as well as Palm  
14 Gardens. So that I can't offer -- I  
15 told him I don't know. I'm in New York.  
16 We have a site who is entering hours for  
17 people, so I would assume and I'm pretty  
18 sure the payroll clerk would assume that  
19 they work in that property, so.

20 (Continued on next page to include  
21 jurat.)  
22  
23  
24  
25

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1 J. Crook  
2 MR. ZEMEL: Yeah. I think that's a  
3 fair assumption, but that's what we're  
4 trying to confirm. All right, then. I  
5 have nothing further for today.

6 MR. NASH: Thank you.  
7 (Time noted: 2:15 p.m.)  
8  
9  
10  
11

12 \_\_\_\_\_  
13 JUDITH CROOK

14 Subscribed and sworn to before me  
15 this \_\_\_\_ day of \_\_\_\_\_, 2010.  
16  
17 \_\_\_\_\_  
18  
19  
20  
21  
22  
23  
24  
25

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1  
2 C E R T I F I C A T E  
3 STATE OF NEW YORK )  
4 : ss.  
5 COUNTY OF WESTCHESTER )  
6

7 I, JOAN WARNOCK, a Notary Public  
8 within and for the State of New York, do  
9 hereby certify:

10 That JUDITH CROOK, the witness  
11 whose deposition is hereinbefore set  
12 forth, was duly sworn by me and that  
13 such deposition is a true record of the  
14 testimony given by the witness.

15 I further certify that I am not  
16 related to any of the parties to this  
17 action by blood or marriage, and that I  
18 am in no way interested in the outcome  
19 of this matter.

20 IN WITNESS WHEREOF, I have hereunto  
21 set my hand this 11th day of July, 2010.  
22  
23

24 \_\_\_\_\_  
25 JOAN WARNOCK

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1  
2 ----- I N D E X -----  
3 WITNESS EXAMINATION BY PAGE  
4 J. Crook Mr. Zemel 4  
5

6 ----- INFORMATION REQUESTS -----  
7 DIRECTIONS:  
8 RULINGS: 17  
9 TO BE FURNISHED:  
10 REQUESTS: 58, 130, 145, 150  
11 MOTIONS:  
12

13 ----- EXHIBITS -----  
14 EXHIBIT FOR ID.  
15 EXHIBIT 1 43  
16 Letter dated June 25, 2010, to  
17 Franklin Zemel from Kevin Nash with  
18 schedules  
19 EXHIBIT 2 83  
20 Proof of Claim filed by Alan Gross  
21 on February 18th, 2010, for two  
22 million dollars  
23 EXHIBIT 3 99  
24 Proof of Claim filed on or about  
25 June 29th of 2010

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1  
 2 EXHIBIT 4 123  
 3 Three-page document first page  
 4 entitled "JVL Supply  
 5 EXHIBIT 4-A 128  
 6 Page from General Ledger  
 7 EXHIBIT 4-B 128  
 8 Page from General Ledger  
 9 EXHIBIT 5 128  
 10 Five-page document, first page  
 11 entitled "HD Supply Facilities  
 12 Maintenance, Inc."  
 13 EXHIBIT 6 130  
 14 Document relating to Amerihome  
 15 Remodeling, Inc.  
 16 EXHIBIT 7 133  
 17 Document relating to Joseph  
 18 Contracting, Inc.  
 19 EXHIBIT 8 139  
 20 Four-Page document, Daily Category  
 21 Report, GFI Management Services,  
 22 Inc.  
 23  
 24  
 25

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1 DEPOSITION ERRATA SHEET  
 2  
 3 Our Assignment No.: 311707  
 4 Case Caption: A&M Florida Properties  
 5  
 6 DECLARATION UNDER PENALTY OF PERJURY  
 7  
 8 I declare under penalty of perjury  
 9 that I have read the entire transcript of my  
 10 Deposition taken in the captioned matter or  
 11 the same has been read to me, and the same is  
 12 true and accurate, save and except for  
 13 changes and/or corrections, if any, as  
 14 indicated by me on the DEPOSITION ERRATA  
 15 SHEET hereof, with the understanding that I  
 16 offer these changes as if still under oath.  
 17 \_\_\_\_\_  
 18 Judith Crook  
 19 Subscribed and sworn to on the \_\_\_\_ day of  
 20 \_\_\_\_\_, 20 \_\_\_\_ before me.  
 21 \_\_\_\_\_  
 22 Notary Public,  
 23 in and for the State of  
 24 \_\_\_\_\_  
 25

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1 DEPOSITION ERRATA SHEET  
 2 Page No. \_\_\_\_ Line No. \_\_\_\_ Change to: \_\_\_\_  
 3 \_\_\_\_\_  
 4 Reason for change: \_\_\_\_\_  
 5 Page No. \_\_\_\_ Line No. \_\_\_\_ Change to: \_\_\_\_  
 6 \_\_\_\_\_  
 7 Reason for change: \_\_\_\_\_  
 8 Page No. \_\_\_\_ Line No. \_\_\_\_ Change to: \_\_\_\_  
 9 \_\_\_\_\_  
 10 Reason for change: \_\_\_\_\_  
 11 Page No. \_\_\_\_ Line No. \_\_\_\_ Change to: \_\_\_\_  
 12 \_\_\_\_\_  
 13 Reason for change: \_\_\_\_\_  
 14 Page No. \_\_\_\_ Line No. \_\_\_\_ Change to: \_\_\_\_  
 15 \_\_\_\_\_  
 16 Reason for change: \_\_\_\_\_  
 17 Page No. \_\_\_\_ Line No. \_\_\_\_ Change to: \_\_\_\_  
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 19 Reason for change: \_\_\_\_\_  
 20 Page No. \_\_\_\_ Line No. \_\_\_\_ Change to: \_\_\_\_  
 21 \_\_\_\_\_  
 22 Reason for change: \_\_\_\_\_  
 23 \_\_\_\_\_  
 24 SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_  
 25 Judith Crook

Page 160

1 DEPOSITION ERRATA SHEET  
 2 Page No. \_\_\_\_ Line No. \_\_\_\_ Change to: \_\_\_\_  
 3 \_\_\_\_\_  
 4 Reason for change: \_\_\_\_\_  
 5 Page No. \_\_\_\_ Line No. \_\_\_\_ Change to: \_\_\_\_  
 6 \_\_\_\_\_  
 7 Reason for change: \_\_\_\_\_  
 8 Page No. \_\_\_\_ Line No. \_\_\_\_ Change to: \_\_\_\_  
 9 \_\_\_\_\_  
 10 Reason for change: \_\_\_\_\_  
 11 Page No. \_\_\_\_ Line No. \_\_\_\_ Change to: \_\_\_\_  
 12 \_\_\_\_\_  
 13 Reason for change: \_\_\_\_\_  
 14 Page No. \_\_\_\_ Line No. \_\_\_\_ Change to: \_\_\_\_  
 15 \_\_\_\_\_  
 16 Reason for change: \_\_\_\_\_  
 17 Page No. \_\_\_\_ Line No. \_\_\_\_ Change to: \_\_\_\_  
 18 \_\_\_\_\_  
 19 Reason for change: \_\_\_\_\_  
 20 Page No. \_\_\_\_ Line No. \_\_\_\_ Change to: \_\_\_\_  
 21 \_\_\_\_\_  
 22 Reason for change: \_\_\_\_\_  
 23 \_\_\_\_\_  
 24 SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_  
 25 Judith Crook

Page 1

1 IN THE CIRCUIT COURT OF THE ELEVENTH  
2 JUDICIAL CIRCUIT, IN AND FOR  
3 MIAMI-DADE COUNTY, FLORIDA  
4 CASE NO. 08-15709-CA-08

5 GFI ACQUISITION, LLC., a Delaware limited liability  
6 company, A & M FLORIDA PROPERTIES, LLC, a Florida  
7 limited liability company, A & M FLORIDA PROPERTIES  
8 II, LLC, a Florida limited liability company, A & M  
9 FLORIDA PROPERTIES III, LLC, a Florida limited  
10 liability company,  
11 Plaintiffs,  
12 v.  
13 AMERICAN FEDERATED TITLE CORPORATION, a Florida  
14 corporation, as Trustee under Land Trust #9651,  
15 AMERICAN FEDERATED TITLE CORPORATION, a Florida  
16 corporation, as Trustee under Land Trust #61530,  
17 AMERICAN FEDERATED TITLE CORPORATION, a Florida  
18 corporation, as Trustee under Land Trust #0751,  
19 AMERICAN FEDERATED TITLE CORPORATION, a Florida  
20 corporation, as Trustee under Land Trust #EO-479,  
21 AMERICAN FEDERATED TITLE CORPORATION, a Florida  
22 corporation, as Trustee under Land Trust #9548-sha,  
23 AMERICAN FEDERATED TITLE CORPORATION, a Florida  
24 corporation, as Trustee under Land Trust  
25 #1045-sil,  
Defendants.

-----X

1221 Brickell Avenue  
Miami, Florida  
September 11, 2008  
10:30 a.m. - 5:10 p.m.  
DEPOSITION OF ALLEN GROSS

Taken before DINA AMATO, Certified Shorthand  
Reporter, and Notary Public for the State of Florida  
at Large, pursuant to Notice of Taking Deposition  
filed in the above cause.

Page 2

1 APPEARANCES

2 ALAINE S. GREENBERG, ESQ., of the firm of  
3 GREENBERG TRAUIG, on behalf of the Plaintiffs.  
4 FRANKLIN L. ZEMEL, ESQ., of the firm of ARNSTEIN  
5 & LEHR, on behalf of the Defendants.

6 ALSO PRESENT: ROBERT CORNFELD

7  
8  
9  
10 INDEX

Witness	Dir.	Cr.	Red.	Rec.
ALLEN GROSS		3		

17 EXHIBITS

Defendants'	For Ident.
1-3	3
4	15
5	129
6	140
7	164

Page 3

1 (EXHIBITS 1-3 MARKED FOR IDENTIFICATION)

2 Thereupon--

3 ALLEN GROSS

4 was called as a witness by the Defendant and, having  
5 been first duly affirmed, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. ZEMEL:

8 Q. Good morning.

9 A. Good morning.

10 Q. Would you be good enough to give us your  
11 name and home address for the record please?

12 A. Allen Gross, 1345 East 27th Street,  
13 Brooklyn, New York.

14 Q. Would you spell your first name for us?

15 A. A-L-L-E-N.

16 Q. Can you tell us how are you currently  
17 employed?

18 A. How is a good question. I am the president  
19 of GFI Capital Resources Group.

20 Q. What does GFI stand for?

21 A. Go for it -- it doesn't stand for  
22 anything.

23 Q. Go for it?

24 A. Yeah. Whatever you want it to stand for.

25 Q. Well, I could assume that G stands for

Page 4

1 Gross and F and I stand for the names of other  
2 current or former investors in the company?

3 A. No, it doesn't. G does not stand for Gross.

4 Q. What does GFI Capital Resources do?

5 A. Multifaceted company involved in real  
6 estate and financial services, investments.

7 Q. What do you do as president of GFI Capital  
8 Resources?

9 A. Manage the different facets of our company.

10 Q. Management includes what?

11 A. Development, real estate management,  
12 mortgage banking, brokerage, insurance, sales,  
13 financing.

14 Q. Do you believe that you're highly skilled  
15 in each of those areas?

16 A. No.

17 Q. Do you believe you're highly skilled in any  
18 area?

19 MS. GREENBERG: Object to the form.

20 A. That's not for me to say.

21 Q. I'm asking for you to toot your horn.

22 A. I don't toot.

23 Q. Tell me what you believe you're highly  
24 skilled in?

25 MS. GREENBERG: Object to form.

<p style="text-align: right;">Page 5</p> <p>1 A. I believe I'm highly skilled in being a 2 good person. 3 Q. Okay. How long has GFI Capital Resources 4 been in business? 5 A. Over 25 years. 6 Q. Is GFI Capital Resources, is that an LLC or 7 a corporation? 8 A. It's an LLC, maybe. 9 Q. You said maybe? 10 A. Maybe, maybe sub chapter S. 11 Q. You're not sure? 12 A. I don't know. I'd have to check with my 13 financial people. 14 Q. Who would you ask? 15 A. Paul Glick. 16 Q. What does Paul Glick do? 17 A. He's the CFO. 18 Q. How many employees does GFI Capital 19 Resources have? 20 A. About a thousand. 21 Q. Who are the owners of the entity, GFI 22 Capital Resources? 23 MS. GREENBERG: Object to form. 24 A. I am. 25 Q. You own 100 percent of it?</p>	<p style="text-align: right;">Page 7</p> <p>1 Q. Any formal education beyond high school? 2 A. Went to college. 3 Q. Okay. Where did you go to high school? 4 A. Yeshiva Chsan Sofer. 5 Q. Where was that located? 6 A. In the lower east side of New York. 7 Q. Okay. Where did you go to college? 8 A. Brooklyn College. 9 Q. Did you degree at Brooklyn College? 10 A. Yes. 11 Q. In? 12 A. Accounting. 13 Q. Do you have formal education beyond 14 Brooklyn College? 15 A. Yes. 16 Q. Where did you go? 17 A. New York Law. 18 Q. What year did you graduate? 19 A. Who remembers? 20 Q. Well, let's start did they have electricity 21 back then? 22 A. Yes, they had electricity and they also had 23 cars. 24 Q. They did? 25 A. Yes.</p>
<p style="text-align: right;">Page 6</p> <p>1 A. Yes. 2 Q. Have you always owned 100 percent? 3 A. Yes. 4 Q. Does GFI Capital Resources have any 5 affiliates? 6 A. Yes. 7 Q. How many? 8 A. Hundreds. 9 Q. Is that because typically you prefer to put 10 each property into a single entity? 11 MS. GREENBERG: Object to form. 12 A. That's one of them. 13 Q. And is A &amp; M Florida Properties, LLC an 14 affiliate of GFI Capital Resources? 15 MS. GREENBERG: Object to form. 16 A. Yes. 17 Q. Is A &amp; M Florida Properties II, LLC an 18 affiliate of GFI Capital Resources? 19 A. Yes. 20 Q. And is A &amp; M Florida Properties III, LLC an 21 affiliate of GFI Capital Resources? 22 A. Yes. 23 Q. Can you tell me please give me the benefit 24 of your education? 25 A. Graduated high school.</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. Good, I'm glad to hear that. Would you have 2 graduated in the 70s? 3 A. Yes. Early 70s. 4 Q. Did you achieve any honors at either 5 Brooklyn College or New York Law School? 6 A. No. 7 Q. Did you have any formal education beyond 8 New York Law School? 9 A. No. 10 Q. Are you currently a member of any Bar? 11 A. Yes. 12 Q. Which Bar? 13 A. New York. 14 Q. Are you currently a member in good standing 15 with the New York Bar? 16 A. Yes. However, I do not practice. 17 Q. Are you listed as inactive in the New York 18 Bar? 19 A. I wouldn't know. 20 Q. Do you pay your dues every year? 21 A. One of my guys in the office takes care of 22 that, so I wouldn't know if I'm active, inactive. I 23 know I don't get a card. 24 Q. You don't get a Bar card? 25 A. Right. I would assume I'm inactive.</p>

Page 9

1 Q. Did you ever practice law?  
 2 A. A little bit.  
 3 Q. Okay. What other licenses, if any, do you  
 4 currently hold?  
 5 A. Well, in New York, once you have a -- once  
 6 you are an attorney, you automatically have a real  
 7 estate license and I have a driver's license.  
 8 Q. You have a -- you're a New York real estate  
 9 licensee?  
 10 A. Yes.  
 11 Q. My recollection was that in New York, if  
 12 you obtain status with the Bar, you are automatically  
 13 eligible as a real estate licensee, you didn't  
 14 automatically become a licensee?  
 15 A. Like I said, it was 25 years ago.  
 16 Q. So your New York licensed real estate  
 17 licensee, correct?  
 18 A. Yes.  
 19 Q. Who is the principal broker? With whom do  
 20 you hang your license with?  
 21 A. GFI.  
 22 Q. Are you the principal broker at GFI?  
 23 A. Yes.  
 24 Q. When you refer to GFI, you are referring to  
 25 --

Page 10

1 A. GFI Realty Services, Inc.  
 2 Q. Prior to the filing of this lawsuit that  
 3 we're here about today, have you ever been a party to  
 4 a lawsuit before you individually?  
 5 A. Sure.  
 6 Q. How many times?  
 7 A. Thousands.  
 8 Q. You individually have been a party  
 9 thousands of times?  
 10 A. Sure.  
 11 Q. Those are typically what, landlord tenant  
 12 evictions?  
 13 A. Landlord tenant, slip and falls, you name  
 14 it.  
 15 Q. Have you ever been, you yourself been a  
 16 party to a lawsuit where allegations of fraud have  
 17 been alleged against you?  
 18 A. Yes.  
 19 Q. How many times?  
 20 A. A couple.  
 21 Q. Okay. Tell me about those couple, please?  
 22 A. We won.  
 23 Q. That's nice. Where were they filed?  
 24 A. Some were filed in New York.  
 25 Q. Okay. Tell me about the case, what was the

Page 11

1 name of the case that was filed in New York?  
 2 A. I don't recall the exact caption, but it  
 3 was a case about 15 years ago, 20 years ago.  
 4 Q. And what were the allegations against you  
 5 individually?  
 6 A. Allegations of one was a RICO action which  
 7 was dismissed and that's the one I recall most.  
 8 Q. Who sued you?  
 9 A. We were sued by Westside Federal -- oh,  
 10 I'm sorry, First Nationwide.  
 11 Q. Did you give a deposition in that case?  
 12 A. I don't recall.  
 13 Q. What were the names of the lawyers or law  
 14 firm that defended you in that proceeding?  
 15 MS. GREENBERG: This is totally irrelevant.  
 16 I gave you some latitude. It's 15 to 20 years  
 17 ago. He won.  
 18 I don't know -- tell me how this could lead  
 19 to discoverable evidence.  
 20 A. I don't remember.  
 21 MR. ZEMEL: Thank you, but you don't grant  
 22 me latitude. Thank you.  
 23 MS. GREENBERG: I'm asking you now, as you  
 24 gave me the whole speech this morning before we  
 25 went into the deposition, how is this going to

Page 12

1 lead to discoverable evidence? It's 15 to 20  
 2 years ago and it ended up in a --  
 3 MR. ZEMEL: You are assuming he's telling  
 4 the truth. I don't.  
 5 MS. GREENBERG: Even if he weren't, which  
 6 I'm not suggesting he's not, it's irrelevant.  
 7 It's 15 to 20 years ago.  
 8 MR. ZEMEL: You may think it's irrelevant.  
 9 I don't.  
 10 Q. What was the name of the law firm that  
 11 represented you in that RICO case?  
 12 A. I have to remember. There's an individual  
 13 by the name of Michael Broffman but he changed firms,  
 14 so I don't know if it was under his old firm and I  
 15 don't remember the firm that he changed to. But the  
 16 name was -- there was a guy Allen Liebman. I really  
 17 don't recall because we used at that time two, three  
 18 lawyers.  
 19 Q. Is that in Federal or State courts in New  
 20 York?  
 21 A. It was in Federal Court.  
 22 Q. Is that the most recent case that you  
 23 yourself were named as a party in which allegations  
 24 of fraud were directed at you?  
 25 A. Again, I don't read every lawsuit. I have

Page 13

1 general counsel that does that. So that was the one  
2 that stands out the most in my mind.

3 Q. So, as you are sitting here today, you are  
4 saying that you just don't recall whether there was  
5 any other lawsuit more recent than the First  
6 Nationwide RICO case in which allegations were  
7 directed at you individually for fraud, is that  
8 correct?

9 A. That's correct.

10 Q. Okay. And the person with the most  
11 knowledge who would be able to answer that question  
12 would be your general counsel?

13 A. Yes.

14 Q. Okay. What is the name of your general  
15 counsel?

16 A. Alan Schacter.

17 Q. Spell that for us, please?

18 A. Alan, A-L-A-N, S-C-H-A-C-T-E-R.

19 Q. Was Alan Schacter authorized by you to sign  
20 any documents relating to the Purchase and Sale  
21 Agreement which is the subject of this lawsuit?

22 A. Yes.

23 MS. GREENBERG: Well, I'd like you to pause.  
24 I'm going to object to the form of that, but go  
25 ahead.

Page 14

1 Q. How many times have you been deposed  
2 before?

3 A. Two, three.

4 Q. Have you been deposed in the last five  
5 years?

6 A. Yes.

7 Q. How many times?

8 A. Once.

9 Q. In what case?

10 A. An employee that was terminated.

11 Q. What were the allegations?

12 A. Wrongful termination.

13 Q. Based on what?

14 A. Based on just he felt he was wrongfully  
15 terminated.

16 Q. Okay. That's a sort of an unknown concept  
17 in Florida. It's different in New York or as you  
18 like to say, New York.

19 But my question is were there allegations  
20 of fraud, were there allegations of whistle blowing  
21 or criminal activity?

22 A. No, he just felt that slugging another  
23 employee wasn't grounds enough for him to get  
24 terminated.

25 Q. New York.

Page 15

1 A. He felt he was provoked and, therefore, he  
2 had a right as his superior to slug the guy.

3 Q. Obviously a Mets fan.

4 A. Actually not.

5 Q. Let me ask you to look at what we've  
6 already marked as Exhibit-1 to your deposition which  
7 is the Purchase and Sale Agreement.

8 Could you take look at that for me and tell  
9 me if you can identify that exhibit?

10 A. Yes.

11 Q. I notice you didn't even open up past the  
12 first page.

13 Would you like to check and see if that's  
14 your signature on it and that's a full and complete  
15 document?

16 MS. GREENBERG: Object to form.

17 Q. Is that your signature that appears --

18 A. I can't see, it's very light but yeah, it  
19 looks like it.

20 Q. Let me show you what I've marked as  
21 Exhibit-4 to your deposition.

22 (EXHIBIT-4 MARKED FOR IDENTIFICATION)

23 Q. This is the Amended Fifth Re-Notice Of  
24 Taking Deposition Duces Tecum with respect to the  
25 Rule 1.310(b)(6) representative from GFI Acquisition.

Page 16

1 Have you seen this or a similar notice of  
2 deposition duces tecum relating to this case?

3 A. No.

4 Q. Were you ever asked by anyone to review  
5 Schedule A to determine whether or not you had any  
6 documents, you or anyone on your behalf had any  
7 documents responsive to the schedule?

8 A. My general counsel deals with all these  
9 issues.

10 Q. Are you here as the Rule 1.310(b)(6)  
11 representative for GFI Acquisition, LLC?

12 A. I don't know what Rule 1.310 says.

13 MR. ZEMEL: Miss Greenberg?

14 MS. GREENBERG: He is the person who is  
15 being represented as the person with the most  
16 knowledge although others do have knowledge.

17 MR. ZEMEL: Well, it's not a good question  
18 of who has the most knowledge.

19 The question is you or someone on your  
20 behalf designated him as the 1.310(b)(6)  
21 representative. That's correct?

22 MS. GREENBERG: Yes.

23 Q. Tell us as the 1.310(b)(6) representative  
24 all the things that you've done to prepare yourself  
25 for this deposition?

Page 17

1 A. Got up at four in the morning, bought a  
 2 ticket, flew down and was happy to see Dr. Cornfeld.  
 3 Q. Is that the limit of the preparation that  
 4 you've made for this deposition?  
 5 A. Just about.  
 6 MR. ZEMEL: Well, let's just note on the  
 7 record that it's a bad faith designation of  
 8 1.310(b)(6) but we'll proceed subject to my  
 9 objection.  
 10 MS. GREENBERG: It's not a bad faith. I  
 11 completely disagree it's a bad faith. It's the  
 12 person with the most knowledge of the underlying  
 13 facts which are the subject of this litigation.  
 14 MR. ZEMEL: I'll debate it with you later  
 15 but a 1.310(b)(6) representative has affirmative  
 16 obligations to be prepared for the deposition  
 17 and not just show up unprepared.  
 18 MS. GREENBERG: Nobody has suggested that he  
 19 showed up unprepared.  
 20 MR. ZEMEL: It's no different than a 30B6.  
 21 Let's move on.  
 22 Q. Mr. Gross, let me ask you to look at  
 23 Schedule A.  
 24 Does GFI Acquisition have any documents  
 25 responsive to number one on the schedule?

Page 18

1 A. Where do you want me to look, sir?  
 2 Q. If you listen to my questions, I said  
 3 please look at Schedule A to the exhibit.  
 4 A. Schedule A to which exhibit?  
 5 Q. To Exhibit-4, the notice of taking  
 6 deposition.  
 7 A. You didn't say that, sir.  
 8 Q. Sir?  
 9 A. You didn't say that.  
 10 Q. Sir, Schedule A to the notice of taking  
 11 deposition?  
 12 A. Okay.  
 13 Q. Does GFI Acquisition have any documents  
 14 responsive to item one on Schedule A?  
 15 A. All our documents were turned over to our  
 16 attorneys as per their instructions.  
 17 Q. Does that mean that you had turned over to  
 18 your attorneys all e-mails between you, GFI  
 19 Acquisition, and the Cornfeld entities?  
 20 A. To the best of my knowledge.  
 21 Q. Tell me what you did to determine that all  
 22 documents responsive were turned over to your  
 23 attorneys?  
 24 MS. GREENBERG: I'm going to object. He  
 25 already told you his counsel took care of it.

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1 Q. Tell me what you did, sir?  
 2 A. I turned to my counsel and told them take  
 3 care of this.  
 4 Q. Okay. Do you know what efforts your general  
 5 counsel -- I'm sorry. You are referring to  
 6 Mr. Schacter?  
 7 A. Sure.  
 8 Q. Can you tell me what efforts Mr. Schacter  
 9 undertook to determine that all e-mails and memos and  
 10 agreements from GFI to Robert Cornfeld and AFTC and  
 11 the Cornfeld Group were produced to your attorneys?  
 12 MS. GREENBERG: Hold on.  
 13 A. I don't know.  
 14 Q. Would your answer be the same to all eight  
 15 categories, that you just don't know what efforts  
 16 were taken to ensure that all documents responsive to  
 17 these requests were provided to your counsel?  
 18 A. I assume my general counsel as legal  
 19 representative of our company would do everything  
 20 necessary to abide and to do everything that our  
 21 attorneys requested.  
 22 Q. That wasn't my question. My question was  
 23 would your answer be the same, that you do not know  
 24 what efforts your general counsel undertook to ensure  
 25 that all documents responsive to this Schedule A were

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1 produced by GFI Acquisition and delivered to your  
 2 attorneys?  
 3 A. You would have to ask me every single one.  
 4 I didn't read all the numbers so I can't give you an  
 5 answer.  
 6 Q. Okay. As you request, we'll go through them  
 7 all.  
 8 Let me ask you to take a look at category  
 9 number two, please. Can you tell us please what  
 10 efforts did you make to determine that all documents  
 11 responsive to item number two were produced to your  
 12 attorneys, Greenberg Traurig?  
 13 A. I spoke to my general counsel and advised  
 14 them that we should comply with all the items  
 15 requested in the subpoena or deposition requests,  
 16 whatever you need.  
 17 Q. So you specifically told Mr. Schacter to  
 18 produce every document responsive to this schedule,  
 19 is that correct?  
 20 A. Yes.  
 21 Q. When did you tell him that?  
 22 A. When we were advised that's what we have to  
 23 do.  
 24 Q. When were you advised you needed to do  
 25 that?

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1 A. I don't recall the exact date.  
 2 Q. Was it in the last week or two?  
 3 A. I don't know -- not in the last week or  
 4 two.  
 5 Q. Do you have any specific recollection of  
 6 ever being asked to arrange to have these documents  
 7 produced?  
 8 A. Our attorneys know who the different people  
 9 in our office that deal with different items and they  
 10 contact them directly.  
 11 Q. That wasn't my question.  
 12 A. You asked me a question.  
 13 Q. I'll have it read back if you'd like?  
 14 A. Please read it back again.  
 15 (REPORTER READS BACK PREVIOUS QUESTION)  
 16 Q. Would you like to answer my question now?  
 17 A. Sure.  
 18 Q. Good. Do you have a specific recollection  
 19 of being asked to produce all documents responsive to  
 20 this Schedule A?  
 21 A. I don't recall.  
 22 Q. You don't recall if you have a recollection  
 23 of ever being asked?  
 24 A. I don't recall.  
 25 Q. So, can you tell me then if you don't

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1 recall ever being asked to produce these documents,  
 2 just tell me how you recall ever telling Alan  
 3 Schacter to please provide them?  
 4 A. Alan Schacter is our general counsel and  
 5 Alan Schacter on a once a week basis meets me and  
 6 keeps me up to date of what's going on with different  
 7 issues with the company.  
 8 So I assume he would have advised me as to  
 9 the status of the lawsuit.  
 10 Q. So, you assume that he mentioned to you  
 11 that there was a document request that needed to be  
 12 responded to?  
 13 MS. GREENBERG: Now we're going into  
 14 attorney/client privilege. So you know, you  
 15 asked him who advised him. We're not going to  
 16 get into the conversations he had with his  
 17 counsel.  
 18 MR. ZEMEL: Are you now instructing him not  
 19 to answer that question?  
 20 MS. GREENBERG: If it's attorney/client  
 21 privilege, yes, I am.  
 22 MR. ZEMEL: I can't answer the if. Are you  
 23 instructing him?  
 24 MS. GREENBERG: What was the question?  
 25 (REPORTER READS BACK PREVIOUS QUESTION)

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1 MS. GREENBERG: You're asking for  
 2 conversations with his counsel.  
 3 MR. ZEMEL: I'm not going to quibble with  
 4 you. I'm just asking if you are instructing him  
 5 not to answer?  
 6 MS. GREENBERG: Yes, I'm instructing him not  
 7 to answer questions about what his general  
 8 counsel told him.  
 9 MR. ZEMEL: Okay.  
 10 Q. So, is it a true statement that you  
 11 personally have no knowledge as to what efforts were  
 12 undertaken to produce the documents responsive to  
 13 this Schedule A?  
 14 A. I don't have full knowledge.  
 15 Q. Do you have any personal knowledge of what  
 16 was done to ensure that all documents responsive to  
 17 Schedule A were produced to your attorneys Greenberg  
 18 Traurig?  
 19 A. No.  
 20 Q. And as -- what is your position with GFI  
 21 Acquisition, LLC?  
 22 A. I'm the principal.  
 23 Q. What does principal mean?  
 24 A. I'm a principal.  
 25 Q. You're a principal. What does that mean?

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1 Who are the owners of GFI Acquisition, LLC?  
 2 A. I am.  
 3 Q. Anyone else other than you?  
 4 A. No. I'm so sorry, I should really -- my  
 5 wife.  
 6 Q. Your wife's name is?  
 7 A. Edith Gross.  
 8 Q. Is she an officer or director or have any  
 9 management responsibility of GFI Acquisition, LLC?  
 10 A. Chief cook and bottle washer.  
 11 Q. What does that mean in terms of her  
 12 day-to-day activities?  
 13 A. Everything and anything I don't want to do  
 14 or anybody else doesn't want to do.  
 15 Q. Does she have authority to sign documents  
 16 related to -- strike that.  
 17 Does she have authority to sign documents  
 18 on behalf of GFI Acquisition, LLC with respect to the  
 19 Purchase and Sale Agreement at issue in this case?  
 20 A. Yes, she does.  
 21 Q. And did your wife have authority to sign  
 22 documents on behalf of A & M Florida Properties, LLC?  
 23 A. Yes, she does.  
 24 Q. Does your wife have authority to sign  
 25 documents on behalf of A & M Florida Properties II,

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1 LLC?  
 2 A. Yes, she does.  
 3 Q. Does your wife have authority to sign  
 4 documents on behalf of A & M Florida Properties III,  
 5 LLC?  
 6 A. You're asking the wrong question. You  
 7 should ask me does she give me authority to sign  
 8 documents. That's the question.  
 9 Q. Okay. Does your wife give you authority to  
 10 sign documents on behalf of any of those entities?  
 11 A. Only if I'm nice to her.  
 12 Q. Are you aware of any documents responsive  
 13 to --  
 14 A. I made him smile. You notice that?  
 15 Finally.  
 16 Q. Are you a --  
 17 A. You're not going to take this so seriously.  
 18 Q. Who?  
 19 A. You. I want to see if I could make you  
 20 smile a little bit.  
 21 Q. Are you aware of whether any documents  
 22 responsive to Schedule A on this Exhibit-4 are  
 23 missing or have otherwise been discarded?  
 24 MS. GREENBERG: Object to form.  
 25 A. Not to my knowledge.

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1 Q. Okay. Are you aware or have you heard that  
 2 any documents responsive to Schedule A have been  
 3 destroyed or lost?  
 4 MS. GREENBERG: Object to form.  
 5 A. Not to my knowledge.  
 6 Q. Can you tell me who is responsible for  
 7 calendaring your appointments?  
 8 A. That is a big problem. I've been through  
 9 15 secretaries in the last two years, so that's a big  
 10 major issue.  
 11 Q. I'll introduce you to one of my partners.  
 12 Do you have at least a procedure in your business for  
 13 calendaring of your appointments?  
 14 A. There is a procedure my assistant is  
 15 supposed to do.  
 16 Q. Tell me what is the procedure?  
 17 A. Regarding what appointment?  
 18 Q. Tell me. Do you have a -- do you have any  
 19 sort of procedure in place to ensure that you know  
 20 where to be and when to be there?  
 21 A. It's called a Blackberry.  
 22 Q. How do your appointments get on your  
 23 Blackberry?  
 24 A. My assistant is supposed to synch my  
 25 Blackberry with her computer.

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1 Q. And how does your secretary or assistant  
 2 know to even put an appointment on the calendar  
 3 before synching it with your Blackberry?  
 4 A. She gets called from different department  
 5 heads with different appointments and she checks with  
 6 me.  
 7 Q. And what calendaring program or system is  
 8 used in GFI Capital Resources?  
 9 A. Now you are going to an area that's not my  
 10 expertise when you are talking what program, wrong  
 11 language.  
 12 Q. Is --  
 13 A. Me and Dr. Cornfeld share that.  
 14 Q. Does GFI -- strike that. Does GFI  
 15 Acquisition, LLC, is that based out of the same  
 16 physical address as GFI Capital Resources?  
 17 A. Yes.  
 18 Q. All of these businesses and affiliates,  
 19 they are all based out of one location in New York?  
 20 A. That's our corporate headquarters.  
 21 Q. I'm sorry. You say New York. I'm trying  
 22 to --  
 23 A. New York.  
 24 Q. I'm trying to make you feel at home.  
 25 A. Guess what? Today is a very memorial day

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1 for us. I was down there. My office is a block away  
 2 from the World Trade Center.  
 3 Q. Still there?  
 4 A. My office is still there. And I was there.  
 5 I saw it. I lived it.  
 6 Q. Hear the unions outside still picketing?  
 7 A. I don't know what they are picketing.  
 8 Q. I figure you are from New York, you're used  
 9 to hearing that.  
 10 A. No, we don't hear too much of that.  
 11 (OFF THE RECORD DISCUSSION)  
 12 Q. Are the computers at the headquarters of  
 13 GFI networked?  
 14 A. I assume.  
 15 Q. Who is your IT person, if you know?  
 16 A. The head of IT is Debbie Garfinkel.  
 17 Q. Did you yourself calendar any deadlines or  
 18 dates with respect to the Purchase and Sale Agreement  
 19 at issue in this case?  
 20 A. No.  
 21 Q. Is there anyone in your entire organization  
 22 who has had the responsibility for calendaring dates  
 23 and deadlines relating to the Purchase and Sale  
 24 Agreement?  
 25 A. No.

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1 Q. Is there anybody on the planet that would  
2 have had responsibility for calendaring dates or  
3 deadlines relating to the Purchase and Sale  
4 Agreement?  
5 A. Yes.  
6 Q. Who is that?  
7 A. Moshe Lehrfield.  
8 Q. Do you know if Moshe Lehrfield calendared  
9 any dates or deadlines relating to the Purchase and  
10 Sale Agreement?  
11 A. I don't know.  
12 Q. Do you know if he ever calendared the  
13 outside closing date as defined in the Purchase and  
14 Sale Agreement?  
15 A. I don't know.  
16 Q. Have you read all or any portion of the  
17 deposition of Moshe Lehrfield?  
18 A. No, I did not.  
19 Q. Did you know his deposition had been taken?  
20 A. Yes.  
21 Q. Did you know a transcript had been  
22 prepared?  
23 A. No.  
24 Q. Let me ask you to take a look at what's  
25 been marked as Exhibit-2. This hefty exhibit is the

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1 complaint which you caused to be filed in this case.  
2 A. No, sir, you caused it to be filed.  
3 Q. Sir, did you authorize the filing of this  
4 lawsuit?  
5 A. Yes, I did.  
6 Q. Did your wife authorize you to file this  
7 lawsuit?  
8 A. No, she did not. She liked Dr. Cornfeld.  
9 Q. Did you see the complaint before it was  
10 filed?  
11 A. No, sir.  
12 Q. Did you participate in any way in the  
13 drafting of the complaint?  
14 A. No, sir.  
15 Q. Did you make any edits or revisions in any  
16 way to the complaint before it was filed?  
17 MS. GREENBERG: Okay. I'm going to object.  
18 It's work product privilege. I'm instructing him  
19 not to answer.  
20 Q. Have you ever read the complaint?  
21 A. Yes.  
22 Q. How long ago prior to this deposition have  
23 you read the complaint?  
24 A. I read it when it was filed.  
25 Q. And at the time that you read the

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1 complaint, did you find anything in the complaint  
2 that you believe was either inaccurate or incorrect?  
3 A. I don't recall.  
4 Q. If you would have read the complaint and  
5 found any factual allegations which were incorrect,  
6 would you have brought it to someone's attention?  
7 MS. GREENBERG: Object to form.  
8 A. I assume I would have.  
9 Q. You understood of course that when you  
10 authorized this lawsuit to be filed, that the court  
11 would rely upon this document, isn't that right?  
12 MS. GREENBERG: Object to form. The court  
13 doesn't rely -- that's just a  
14 mischaracterization.  
15 Q. Sir, when you authorized this complaint to  
16 be filed, you understood that the court was going to  
17 rely upon your complaint, isn't that right?  
18 MS. GREENBERG: Same objection.  
19 A. I assume.  
20 Q. And would it be fair to say that you wanted  
21 the complaint to be as accurate as possible?  
22 A. Yes.  
23 Q. Is it fair to assume that at the time you  
24 read the complaint, if you saw there was anything in  
25 the complaint that wasn't accurate, you would have

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1 said something to someone, isn't that right?  
2 MS. GREENBERG: Object, asked and answered.  
3 Q. Would you like me to have that read back  
4 for you, sir?  
5 A. Didn't she just say asked and answered?  
6 Q. Sir, would you answer my question, please?  
7 MS. GREENBERG: You can answer the question.  
8 A. Yes.  
9 Q. As far as you know, are all of the factual  
10 statements in the complaint true and accurate?  
11 A. As far as I know.  
12 Q. As you sit here now, do you have any reason  
13 to believe any of the factual allegations in the  
14 complaint are incorrect?  
15 A. To the best of my knowledge.  
16 Q. To the best of your knowledge what?  
17 A. They are correct.  
18 Q. Okay. Let me ask you to go back to the  
19 Purchase and Sale Agreement, please, Exhibit-1.  
20 Did you read that document before you  
21 signed it?  
22 A. No.  
23 Q. Is that your typical procedure to sign  
24 documents you haven't read?  
25 A. Yes.

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1 Q. And do you typically have these types of  
 2 contracts reviewed prior to your signature?  
 3 A. Yes.  
 4 Q. Who would typically do that for you?  
 5 A. Moshe Lehrfeld, my general counsel and the  
 6 asset manager.  
 7 Q. Who is that?  
 8 A. At that point, it was Michael Weiser.  
 9 Q. Is he no longer with the company?  
 10 A. Excuse me?  
 11 Q. Is he still with GFI Capital Resources?  
 12 A. Yes, he is.  
 13 Q. He's no longer the asset manager?  
 14 A. No.  
 15 Q. What does -- what is his title now?  
 16 A. He is still with the company, but he's not  
 17 doing the day-to-day asset management of the asset.  
 18 Q. I just asked what his title was?  
 19 A. He heads up dispositions and acquisitions.  
 20 Q. What are his duties as heading dispositions  
 21 and acquisitions?  
 22 A. Go sees the deals we acquire, works with  
 23 the acquisition people making sure of the numbers,  
 24 dealing with the banks, dealing with the attorneys,  
 25 everything that's required in an acquisition or a

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1 disposition.  
 2 Q. And how is his position today different  
 3 than what it was in July of 2007 when the Purchase  
 4 and Sale Agreement was signed?  
 5 A. He was much more involved because of the  
 6 situation because of my relationship with  
 7 Dr. Cornfeld.  
 8 Q. Explain that, please?  
 9 A. It was -- he was much more involved dealing  
 10 with Dr. Cornfeld.  
 11 Q. Is his position today as head of  
 12 dispositions and acquisitions the same position he  
 13 had in July of '07 when the Purchase and Sale  
 14 Agreement was signed by you?  
 15 A. No. He doesn't get personally involved in  
 16 every detail of the acquisition today as he did with  
 17 his acquisition.  
 18 Q. Okay. Was there something unique about this  
 19 particular acquisition as set forth in the Purchase  
 20 and Sale Agreement?  
 21 A. Yes.  
 22 Q. What was that?  
 23 A. Dr. Cornfeld.  
 24 Q. Explain that, please? What makes  
 25 Dr. Cornfeld so unique?

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1 A. Dr. Cornfeld is unique.  
 2 Q. Okay. In what way?  
 3 A. In every way.  
 4 Q. Why did Michael Weiser have to spend or  
 5 apply himself to additional detail on the particular  
 6 acquisition set forth in the Purchase and Sale  
 7 Agreement as opposed to any other transaction?  
 8 A. Because most of us were emotionally  
 9 involved with Dr. Cornfeld.  
 10 Q. Explain to me what that means, emotionally  
 11 involved?  
 12 A. When somebody is emotionally involved with  
 13 another person, it is very difficult for them to  
 14 ascertain and make the right business decisions and I  
 15 and some of the others were emotionally involved.  
 16 Q. I'm just asking you to define what that  
 17 means when you say emotionally involved?  
 18 A. When you are emotionally involved, you  
 19 don't see the forest from the trees.  
 20 Q. But I need you to explain to me what it  
 21 means to be emotionally involved?  
 22 MS. GREENBERG: Objection, asked and  
 23 answered.  
 24 A. I explained it. I think you very well  
 25 understand what I'm saying.

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1 Q. No.  
 2 A. Why don't you ask Dr. Cornfeld to answer  
 3 that?  
 4 Q. At some point, your attorney or attorneys  
 5 will have that option.  
 6 For now, you are using a phrase that you  
 7 and others in your organization were emotionally  
 8 involved and I don't know what that means. You loved  
 9 each other, you hated each other, you despised each  
 10 other?  
 11 I don't know what that means.  
 12 A. I think there was a great affinity and a  
 13 great amount of respect and a great friendship.  
 14 Q. Between you and Dr. Cornfeld?  
 15 A. That's correct.  
 16 Q. And who else in your organization do you  
 17 believe shared this same emotional connection with  
 18 Dr. Cornfeld?  
 19 A. David Arnow.  
 20 Q. Anyone else?  
 21 A. Steven Hurwitz.  
 22 Q. Spell the last name?  
 23 A. H-U-R-W-I-T-Z.  
 24 Q. Anyone else?  
 25 A. Brian Gross.

<p style="text-align: right;">Page 37</p> <p>1 Q. Spell Brian?</p> <p>2 A. B-R-I-A-N.</p> <p>3 Q. Related to you?</p> <p>4 A. Yes.</p> <p>5 Q. In what way?</p> <p>6 A. My son.</p> <p>7 Q. How old is he?</p> <p>8 MS. GREENBERG: Don't get this wrong.</p> <p>9 MR. ZEMEL: I didn't ask you -- I didn't ask</p> <p>10 him his anniversary date.</p> <p>11 A. 28.</p> <p>12 Q. What's your anniversary date? You're under</p> <p>13 oath?</p> <p>14 A. June 19th.</p> <p>15 Q. We'll find out if that's right.</p> <p>16 A. That is right. She doesn't let me forget.</p> <p>17 And I had 33 times to practice it.</p> <p>18 Q. Who else other than Brian Gross, Steven</p> <p>19 Hurwitz, David Arnow and yourself had this emotional</p> <p>20 connection, if you will, with Dr. Cornfeld?</p> <p>21 A. It was everybody in my entire organization.</p> <p>22 Q. Is that unusual in your organization to</p> <p>23 have some emotional connection with somebody you are</p> <p>24 acquiring \$40 million of property from?</p> <p>25 A. Is it unusual? No. Dr. Cornfeld is a very</p>	<p style="text-align: right;">Page 39</p> <p>1 MS. GREENBERG: Object to form.</p> <p>2 A. No. My lawyer, Moshe Lehrfield.</p> <p>3 Q. My question was in your organization.</p> <p>4 MR. ZEMEL: Read back the question.</p> <p>5 (REPORTER READS BACK PREVIOUS QUESTION)</p> <p>6 Q. Is that correct?</p> <p>7 A. Yes. Well, no. My general counsel.</p> <p>8 Q. Alan Schacter?</p> <p>9 A. Yes.</p> <p>10 Q. Does Alan Schacter provide legal advice to</p> <p>11 GFI Acquisition, LLC?</p> <p>12 A. Yes.</p> <p>13 Q. Does he also provide business advice to GFI</p> <p>14 Acquisition, LLC?</p> <p>15 A. Doesn't every lawyer?</p> <p>16 Q. Sir, I'm just asking questions. Does he</p> <p>17 provide business advice as well as legal advice?</p> <p>18 A. I have never met a lawyer that doesn't.</p> <p>19 Q. That's yes?</p> <p>20 A. Yes.</p> <p>21 MS. GREENBERG: I'll object to the form of</p> <p>22 the question.</p> <p>23 Q. Does he also provide business advice as</p> <p>24 well as legal advice to GFI Capital Resources?</p> <p>25 MS. GREENBERG: Again, same objection.</p>
<p style="text-align: right;">Page 38</p> <p>1 likeable, charismatic person and somebody that is</p> <p>2 very easily looked up to.</p> <p>3 Q. So, was that unusual in your organization</p> <p>4 to have an emotional affinity or connection with</p> <p>5 someone you are acquiring property from?</p> <p>6 A. Very unusual.</p> <p>7 Q. Ordinarily before you sign a document to</p> <p>8 acquire property, do you read it before you sign it?</p> <p>9 A. No.</p> <p>10 Q. So, it was really nothing unusual here</p> <p>11 where you chose not to read the Purchase and Sale</p> <p>12 Agreement before signing it, correct?</p> <p>13 A. No.</p> <p>14 Q. You would agree that if you had to sit and</p> <p>15 read every single one of the documents relating to</p> <p>16 acquisitions, you'd never get out of your office?</p> <p>17 A. That's true.</p> <p>18 Q. And so, because of that, you have a staff</p> <p>19 of people that you rely upon and trust to review</p> <p>20 these documents for you, is that correct?</p> <p>21 A. That's correct.</p> <p>22 Q. And the person who was most responsible in</p> <p>23 your organization to review the documents with</p> <p>24 respect to this Purchase and Sale Agreement was</p> <p>25 Michael Weiser?</p>	<p style="text-align: right;">Page 40</p> <p>1 MR. ZEMEL: You can make an objection. You</p> <p>2 don't need to say more than that.</p> <p>3 MS. GREENBERG: But you are getting into the</p> <p>4 area of attorney/client privilege and you are</p> <p>5 suggesting --</p> <p>6 MR. ZEMEL: If you want to instruct him not</p> <p>7 to answer, you can. All I'm asking, does the</p> <p>8 man give business advice in addition to legal</p> <p>9 advice.</p> <p>10 Nobody asked him what the content was.</p> <p>11 MS. GREENBERG: I understand that but --</p> <p>12 MR. ZEMEL: So you understand it, so now</p> <p>13 please make an objection or don't, one or the</p> <p>14 other. Let's move on.</p> <p>15 MS. GREENBERG: I'm going to make the</p> <p>16 objection to the extent that you were suggesting</p> <p>17 that they are separate and different.</p> <p>18 MR. ZEMEL: No speaking objections.</p> <p>19 MS. GREENBERG: I'm going to do it because</p> <p>20 of the privilege issue.</p> <p>21 MR. ZEMEL: Fine.</p> <p>22 Q. Mr. Gross, does Mr. Schacter provide</p> <p>23 business advice to you in addition to legal advice</p> <p>24 with respect to the affairs of GFI Capital Resources,</p> <p>25 LLC?</p>

<p style="text-align: right;">Page 41</p> <p>1 MS. GREENBERG: Same objection.</p> <p>2 A. I have something very important to do.</p> <p>3 You'll have to excuse me for one second.</p> <p>4 Q. You want to -- you want to answer my</p> <p>5 question first ?</p> <p>6 (OFF THE RECORD DISCUSSION)</p> <p>7 Q. Would you like to answer my question now,</p> <p>8 sir?</p> <p>9 A. Could you repeat the question?</p> <p>10 MR. ZEMEL: Miss Reporter?</p> <p>11 A. Do you remember the question?</p> <p>12 Q. I actually do.</p> <p>13 A. So what do we have to bother her for?</p> <p>14 (REPORTER READS BACK PREVIOUS QUESTION)</p> <p>15 MS. GREENBERG: I'm going to object to the</p> <p>16 extent that you are suggesting they are separate</p> <p>17 and apart.</p> <p>18 A. Yes, he does.</p> <p>19 Q. Now, let me just back up for a second</p> <p>20 because earlier you told me -- well, actually, let's</p> <p>21 just be clear.</p> <p>22 You told me earlier that GFI Acquisition,</p> <p>23 LLC is one of hundreds of affiliates of GFI Capital</p> <p>24 Resources, LLC.</p> <p>25 Who are the owners of GFI Acquisition, LLC?</p>	<p style="text-align: right;">Page 43</p> <p>1 Q. And who is the comptroller?</p> <p>2 A. Judith Crook.</p> <p>3 Q. Spell the last name, please?</p> <p>4 A. Isn't that a great name for a comptroller?</p> <p>5 Like Crook, C-R-O-O-K.</p> <p>6 Q. Has GFI Acquisition assigned any of the</p> <p>7 rights that it has under the Purchase and Sale</p> <p>8 Agreement to any other entity or affiliate?</p> <p>9 MS. GREENBERG: Can you ask the question</p> <p>10 again? I'm sorry.</p> <p>11 (REPORTER READS BACK PREVIOUS QUESTION)</p> <p>12 MS. GREENBERG: Object to form.</p> <p>13 A. I don't know. You would have to ask</p> <p>14 Mr. Lehrfield that.</p> <p>15 Q. What should I ask Mr. Lehrfield?</p> <p>16 MS. GREENBERG: Don't answer that.</p> <p>17 A. The last question.</p> <p>18 Q. Okay. Are you authorizing him to answer</p> <p>19 that question?</p> <p>20 MS. GREENBERG: No, he's not.</p> <p>21 MR. ZEMEL: Okay.</p> <p>22 Q. Then I need an answer to the question.</p> <p>23 MS. GREENBERG: You are here to ask him</p> <p>24 questions. You are not here to ask him</p> <p>25 permission to do other things. You can do</p>
<p style="text-align: right;">Page 42</p> <p>1 A. Same owners as GFI Capital Resources.</p> <p>2 Q. So, my question is, is GFI Acquisition, LLC</p> <p>3 owned by GFI Capital Resources which is ultimately</p> <p>4 owned by you or do you actually own the ownership</p> <p>5 interest in your own name of GFI Acquisition, LLC?</p> <p>6 A. I own the acquisition company.</p> <p>7 Q. In your own name?</p> <p>8 A. Yes.</p> <p>9 Q. And do all of these affiliated companies of</p> <p>10 GFI Capital Resources, do they all report on a</p> <p>11 consolidated tax return or do they file separate</p> <p>12 independent tax returns?</p> <p>13 A. Excuse me?</p> <p>14 Q. Do the affiliates of GFI Capital Resources</p> <p>15 report on a consolidated tax return or do they file</p> <p>16 separate independent tax returns?</p> <p>17 MS. GREENBERG: Object to form. This is way</p> <p>18 beyond the scope.</p> <p>19 A. I really wouldn't know. I don't get</p> <p>20 involved in the tax return filings.</p> <p>21 Q. Okay. Who would know the answer to that?</p> <p>22 A. Chief Financial Officer or the comptroller.</p> <p>23 Q. And the Chief Financial Officer you</p> <p>24 mentioned was Paul Glick I think you said?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 44</p> <p>1 whatever you think is appropriate, but I'm not</p> <p>2 going to start asking my client whether he can</p> <p>3 give you authority or advice. This is a lawsuit</p> <p>4 --</p> <p>5 MR. ZEMEL: Just because you raise your</p> <p>6 voice doesn't mean that your objection has any</p> <p>7 more substance than before.</p> <p>8 I just want to know whether GFI Acquisition</p> <p>9 has assigned any rights under the Purchase and</p> <p>10 Sale Agreement to any other entity or affiliate.</p> <p>11 MS. GREENBERG: And he answered the</p> <p>12 question.</p> <p>13 A. Let me answer.</p> <p>14 MS. GREENBERG: No, he answered the</p> <p>15 question.</p> <p>16 MR. ZEMEL: He didn't answer.</p> <p>17 MS. GREENBERG: Plead read back the question</p> <p>18 and answer.</p> <p>19 (REPORTER READS BACK PREVIOUS QUESTION AND ANSWER)</p> <p>20 Q. The answer was go ask someone else and</p> <p>21 that's not an answer.</p> <p>22 Tell me, sir, has GFI Acquisition assigned</p> <p>23 any of its rights under the Purchase and Sale</p> <p>24 Agreement?</p> <p>25 MS. GREENBERG: I'm sorry. Would you please</p>

<p style="text-align: right;">Page 45</p> <p>1 read back the question and answer? That was not</p> <p>2 his answer and I'd like to make the record very</p> <p>3 clear as to what his actual answer was.</p> <p>4 The question was originally has GFI</p> <p>5 assigned any of its rights or interests and then</p> <p>6 I asked for you to repeat the question and he</p> <p>7 asked the question -- can you repeat the answer</p> <p>8 for the record?</p> <p>9 (REPORTER READS BACK PREVIOUS ANSWER)</p> <p>10 MS. GREENBERG: For the record,</p> <p>11 Mr. Lehrfield has been produced and has been</p> <p>12 deposed, so we can continue.</p> <p>13 Q. Sir, has GFI Acquisition assigned any of</p> <p>14 its rights under the Purchase and Sale Agreement to</p> <p>15 any affiliate or subsidiary?</p> <p>16 MS. GREENBERG: It's been asked and</p> <p>17 answered.</p> <p>18 Q. You can answer the question.</p> <p>19 MS. GREENBERG: It's been asked and</p> <p>20 answered. You've already answered the question.</p> <p>21 Q. Sir, answer my question.</p> <p>22 THE WITNESS: What do I do, Doctor? She</p> <p>23 said answer -- what do I do, Doctor? You tell</p> <p>24 me what do I do?</p> <p>25 MS. GREENBERG: You can answer.</p>	<p style="text-align: right;">Page 47</p> <p>1 MR. ZEMEL: Miss Reporter, would you read</p> <p>2 the question back for him please?</p> <p>3 (REPORTER READS BACK PREVIOUS QUESTION)</p> <p>4 MS. GREENBERG: Again, the same objection.</p> <p>5 A. No.</p> <p>6 Q. Here, now you can have your milk.</p> <p>7 A. Thank you. I hope you didn't spit into it.</p> <p>8 Q. Only a little bit.</p> <p>9 A. Okay.</p> <p>10 Q. Did GFI Acquisition ever apply for</p> <p>11 financing in order to close the transaction</p> <p>12 contemplated by the Purchase and Sale Agreement?</p> <p>13 A. Excuse me?</p> <p>14 MR. ZEMEL: Would you read the question back</p> <p>15 please?</p> <p>16 (REPORTER READS BACK PREVIOUS QUESTION)</p> <p>17 MS. GREENBERG: Object to form.</p> <p>18 A. The question again please?</p> <p>19 (REPORTER READS BACK PREVIOUS QUESTION)</p> <p>20 MS. GREENBERG: Same objection.</p> <p>21 A. Yes.</p> <p>22 Q. I'm sorry?</p> <p>23 A. Yes.</p> <p>24 Q. With whom did GFI Acquisition apply for</p> <p>25 financing in order to close the transaction?</p>
<p style="text-align: right;">Page 46</p> <p>1 THE WITNESS: You're the one that knows it</p> <p>2 all. What do I do?</p> <p>3 MR. CORNFELD: Answer the question.</p> <p>4 THE WITNESS: You want me to answer the</p> <p>5 question?</p> <p>6 MR. CORNFELD: Yes.</p> <p>7 A. I don't know.</p> <p>8 Q. Can you tell me are there any successor</p> <p>9 entities to GFI Acquisition, LLC?</p> <p>10 A. I don't know what that means.</p> <p>11 Q. Have you sold, transferred any interest in</p> <p>12 GFI Acquisition, LLC to anyone or any entity?</p> <p>13 MS. GREENBERG: Any membership interest?</p> <p>14 MR. ZEMEL: Any interest.</p> <p>15 Q. Just have the question read back if you</p> <p>16 didn't hear it.</p> <p>17 MS. GREENBERG: I'm just trying to make the</p> <p>18 record clear. I don't know what you mean any</p> <p>19 interest.</p> <p>20 MR. ZEMEL: You can object to the form if</p> <p>21 you'd like.</p> <p>22 Q. Do you have a -- can I have an answer to</p> <p>23 my question, please?</p> <p>24 A. Is that your question, have I sold any</p> <p>25 interest?</p>	<p style="text-align: right;">Page 48</p> <p>1 A. I got to be honest which I'm supposed to be</p> <p>2 during the deposition, but I have a group that takes</p> <p>3 care of all financing, so you would have to really</p> <p>4 get all those answers from them.</p> <p>5 Q. Which group is that?</p> <p>6 A. There's a finance team.</p> <p>7 Q. Who heads that finance team?</p> <p>8 A. Michael Weiser.</p> <p>9 Q. There's an allegation in the complaint that</p> <p>10 at all times, GFI Acquisition was ready, willing and</p> <p>11 able to close this transaction.</p> <p>12 Is that a true statement?</p> <p>13 A. Yes.</p> <p>14 Q. You understand that to mean that at all</p> <p>15 times, GFI Acquisition had the financial ability to</p> <p>16 close this transaction?</p> <p>17 A. Yes.</p> <p>18 Q. Did GFI Acquisition have --</p> <p>19 MS. GREENBERG: Okay. I can ask you to just</p> <p>20 breathe a little bit because I'm going to object</p> <p>21 to the form of the last question.</p> <p>22 Q. Does GFI Acquisition, LLC have any assets</p> <p>23 of its own?</p> <p>24 A. Yes.</p> <p>25 Q. What assets does it have?</p>

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1 MS. GREENBERG: Excuse me. Okay, I'll let  
2 you answer.  
3 A. Me.  
4 Q. Thanks, me. How are you an asset of GFI  
5 Acquisition, LLC?  
6 A. My money.  
7 Q. So, with respect to the allegation at all  
8 times material that GFI Acquisition was ready,  
9 willing and able to close this transaction, does that  
10 mean that you had the ability and the cash available  
11 to close this transaction?  
12 A. Yes.  
13 Q. Sir, what's your net worth?  
14 MS. GREENBERG: I'm going to object and ask  
15 you not to answer.  
16 MR. ZEMEL: What are those grounds?  
17 MS. GREENBERG: Because this is not an  
18 execution deposition. His net worth is  
19 irrelevant. If you want to ask him if he has  
20 the money, that's a different issue.  
21 Q. I asked the question how much money do you  
22 have?  
23 MS. GREENBERG: I'm going to object and I'm  
24 going to tell him -- I'm going to object to it  
25 and tell you not to answer.

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1 MR. ZEMEL: On what grounds?  
2 MS. GREENBERG: Because this is a deposition  
3 of the 1.350(b)(6), person with the most  
4 knowledge of the affairs.  
5 MR. ZEMEL: What deposition rule?  
6 MS. GREENBERG: This is the deposition --  
7 MR. ZEMEL: 1.310(b)(6).  
8 MS. GREENBERG: Yes, 1.310(B)(6). His  
9 personal wealth is irrelevant. The fact that he  
10 has the cash available to fund to the  
11 corporation is relevant.  
12 MR. ZEMEL: Well, let me just make my  
13 record.  
14 You have an allegation that the witness  
15 just testified to that at all times material,  
16 the entity, GFI Acquisition had the financial  
17 ability to close this transaction?  
18 MS. GREENBERG: Yes.  
19 MR. ZEMEL: We don't think that's a true  
20 statement. We don't think GFI had the ability  
21 to close which is why, one of the reasons it  
22 didn't close.  
23 But since you have introduced the  
24 allegation that they were financially able to  
25 close it, we're going to test it. We're going to

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1 test it and we're going to get to find out who  
2 the lenders are, who the financing are, where  
3 the money was going to come from.  
4 MS. GREENBERG: I have no objection to that.  
5 Asking a man what his net worth is --  
6 MR. ZEMEL: Just a second. When I ask the  
7 1.310(b)(6) rep what are the assets of GFI and  
8 he says me, he's the asset.  
9 The next question is great, did he have the  
10 ability to fund the transaction. He says yes.  
11 Next question, what's your net worth? You object  
12 improperly and instruct him not to answer, but  
13 you then tell me that I can ask him how much  
14 money he has.  
15 So I said fine. Then I ask him how much  
16 money has he got. Then you instruct him not to  
17 answer that.  
18 MS. GREENBERG: Let's be clear. What he said  
19 was that the corporation has the ability to  
20 receive the money by loan from him.  
21 MR. ZEMEL: How do I test that assertion if  
22 you keep instructing him not to answer?  
23 MS. GREENBERG: I am not allowing you to ask  
24 him what his net worth is. If you want to ask  
25 him what the source of those funds are, what his

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1 ability to provide those funds are, that's fine.  
2 But he is not here to testify to his individual  
3 net worth.  
4 MR. ZEMEL: Let's start with those.  
5 Q. What is the source of those funds, sir?  
6 A. Cash.  
7 Q. How much cash?  
8 A. How much cash what?  
9 Q. How much cash did you have available in  
10 February of 2008 to close this transaction?  
11 A. About \$30 million.  
12 Q. And what is the source of that \$30 million?  
13 A. Cash.  
14 Q. Where is the money located? Can you tell  
15 me where it was in February of 2008?  
16 A. In the bank.  
17 Q. Which bank?  
18 A. HSBC among others.  
19 Q. Okay. Which branch of HSBC?  
20 MS. GREENBERG: Now we're going to stop. If  
21 you want to take his deposition personally,  
22 that's fine, but we're taking the deposition  
23 here of the LLC.  
24 MR. ZEMEL: I'll accept that. I'll notice  
25 him for deposition personally.

<p style="text-align: right;">Page 53</p> <p>1 So now I get to depose him an additional 2 time. That's okay. I don't have a problem with 3 that. 4 We'll just note the stipulation on the 5 record that I'll depose with your consent, of 6 course, Mr. Gross again as in his individual 7 capacity. 8 MS. GREENBERG: I'm not stipulating to that. 9 MR. ZEMEL: You just told me -- 10 MS. GREENBERG: I told you you're not going 11 to depose him that way here. If you want to 12 depose him, you can go to New York and depose 13 him. 14 MR. ZEMEL: That's fine, I accept your 15 stipulation. 16 MS. GREENBERG: There you go. 17 THE WITNESS: Doctor, you come along. You're 18 paying. 19 Q. Other than you, does GFI Acquisition, LLC 20 have any other assets? 21 A. GFI has lines of credit with banks. 22 Q. GFI Acquisition has lines of credit? 23 A. GFI as a company. 24 Q. GFI Capital Resources, the parent company, 25 has lines of credit?</p>	<p style="text-align: right;">Page 55</p> <p>1 be closed? 2 MS. GREENBERG: Object to form. 3 A. It was supposed to be \$36,000 a door per 4 unit. 5 Q. For all four properties? 6 A. For all four properties. 7 Q. And was this supposed to be seller 8 financing? 9 A. No, sir. 10 Q. Just tell me how you initially -- because 11 look, you could do this deal on a napkin in terms of 12 the terms, the closings and the financing. 13 I just want to know how you initially 14 envisioned buying the four properties? 15 A. It was supposed to be an all cash deal of 16 \$36,000 per door. 17 Q. How soon to close in your mind did you 18 envision? 19 A. Whatever the doctor wanted. We didn't 20 discuss that. 21 Q. At the time, four of your affiliates were 22 -- three of your affiliates were already leasing the 23 four properties under 50 year leases, correct? 24 A. Yes. 25 Q. And were all -- were any of those four</p>
<p style="text-align: right;">Page 54</p> <p>1 A. Correct. 2 Q. And with whom are those lines of credit? 3 A. Capital One, HSBC, National City. 4 Q. And through which branch at Capital One 5 does GFI bank with respect to its lines of credit? 6 A. I wouldn't know. 7 Q. Okay. Who is the bank officer at Capital 8 One with whom GFI does business? 9 A. You would have to ask my CFO. 10 Q. Okay. That's Paul Glick? 11 A. Yes. 12 (SHORT BREAK) 13 Q. As each draft of the Purchase and Sale 14 Agreement was being generated, were you reviewing the 15 drafts? 16 A. No, sir. 17 Q. Did the deal, as you understood it, the one 18 that was ultimately signed in July of 2007, the way 19 the deal -- was that the way you had envisioned the 20 deal, the way you first started negotiations to buy 21 the four properties? 22 MS. GREENBERG: Object to form. 23 A. No, sir. 24 Q. Can you tell me how you initially 25 envisioned the sale would be, the transaction would</p>	<p style="text-align: right;">Page 56</p> <p>1 properties -- strike that. 2 Did any of the four properties have 3 negative cash flow at the time that you made the 4 decision that you wanted to buy the properties? 5 MS. GREENBERG: Object to form. 6 A. I don't remember the exact numbers. 7 Q. What prompted you to make the decision in 8 your mind that you wanted to buy the properties? 9 A. Two of the properties needed extensive 10 renovations. One of the properties was infested with 11 termites and we were spending an enormous amount of 12 money just fixing piecemeal, so it needed an 13 extensive gut rehab. 14 And the other property was just falling 15 apart piece by piece, the balconies were crumbling 16 and there was no other way but to do extensive rehab. 17 Q. Which of the two properties are you 18 referring to? 19 A. Carib and Cutler. 20 Q. Okay. So, just explain to me how that 21 factored into your decision to want to buy Carib and 22 Cutler? 23 A. There was no way we could accomplish rehab 24 with a leasehold and there was no way of getting it 25 done financially. There was no way of getting the</p>

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1 tax credits that we would apply for without having  
2 the ownership.

3 Q. And do you recall whether or not at the  
4 time, the Carib and Cutlerwood properties had a  
5 negative cash flow?

6 MS. GREENBERG: Objection, asked and  
7 answered.

8 A. I don't recall the exact numbers.

9 Q. So, you've explained to me somewhat of your  
10 thought process as to why you made the decision to  
11 try to acquire Carib and Cutlerwood.

12 What was your thought process of trying to  
13 acquire the Shady Oaks and the Palm property?

14 A. Shady as well needed a complete rehab.

15 Q. And Palm Gardens?

16 A. And it was just either we're gonna do it or  
17 not do it and that's when the vacillation came in, do  
18 we do all four, do we not do all four and that's what  
19 went back and forth and back and forth.

20 I really didn't care about whether we do  
21 Palm or not do Palm, but it kept on going back and  
22 forth. When I said to the doctor do you want to keep  
23 Palm the way it is, no, I want to finish with you.

24 So I said okay, we'll do all four.

25 Q. I just want to get the time line down. I

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1 know that you are going to not be able to tell me  
2 today specific dates, but I just want to talk about  
3 generally, do you remember approximately how much  
4 time it took between the time you decided that you  
5 wanted to enter into negotiations to buy the four  
6 properties and the time you signed the Purchase and  
7 Sale Agreement?

8 A. About four months.

9 Q. And are you saying that there was -- you  
10 refer to the word vacillation.

11 Tell me what you mean by the word  
12 vacillation?

13 A. Every day was an -- every day something new  
14 happened. Every day it was like riding a roller  
15 coaster.

16 Q. I'm not sure that that tells me. I'm not  
17 criticizing your use of the word vacillation.

18 I need to understand what you mean by that  
19 so I can --

20 A. Dr. Cornfeld would send a letter, it's all  
21 cash, yes. Next day, we'd find out the price is not  
22 the price, I didn't mean 36 for every one, I meant  
23 this one 36, but now I'm going to charge you more for  
24 the others.

25 And it kept on going. The prices changed.

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1 All of sudden, we found out that there was a debt  
2 that we would have to -- there were mortgages on the  
3 -- debt mortgages on the properties, that there were  
4 penalties on that we had no knowledge of.

5 Q. Is all of this before the Purchase and Sale  
6 Agreement was signed?

7 A. Yes, this was going back and forth, back  
8 and forth.

9 Oh, I didn't know, please excuse me.

10 Dr. Cornfeld would send a schedule on the financing.  
11 It wasn't accurate because it never put in there that  
12 it couldn't be prepaid.

13 And it was just going on and every time  
14 there was another surprise and some of them might not  
15 have been his fault.

16 Q. So, are you saying that in the four months  
17 leading up to the signing of the purchase and sale  
18 contract, that the seller was vacillating is your  
19 word or indecisive on how many or which of the  
20 properties to sell to you?

21 A. And at what price.

22 Q. And at what price?

23 A. Yes, and what terms.

24 Q. And who was handling the lead negotiations  
25 on behalf of the seller?

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1 A. Sometimes myself.

2 Q. I said the seller?

3 A. Oh, for the seller, always Dr. Cornfeld,  
4 never Judy.

5 Q. And who took the lead for the negotiations  
6 leading up to the execution of the contract on behalf  
7 of the buyer, GFI Acquisition?

8 A. Sometimes me and when I got frustrated,  
9 Michael Weiser. When he got frustrated, Steven  
10 Hurwitz. And when he got frustrated, Moshe  
11 Lehrfield. And when he got frustrated, me again.

12 He's good. He can outnegotiate. Boy, when  
13 he gets up there, I want to be sitting right next to  
14 him so we can negotiate because he'll negotiate  
15 everything there.

16 Q. Now let me --

17 A. He'll make them so crazy, they'll tell him  
18 okay, okay, go already. That's a compliment.

19 Q. Once the purchase and sale contract was  
20 finally signed, was there some period of time where  
21 there was quiet between the buyer and seller or was  
22 there constant renegotiating even from the moment  
23 that the contract was signed?

24 MS. GREENBERG: I'm going to object to form.

25 A. There was renegotiations after the contract

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1 was signed.  
 2 Q. That part, I understand. Mr. Lehrfield  
 3 told us that around Christmas, that there was a  
 4 meeting and all sorts of renegotiations.  
 5 I'm trying to figure out was there some  
 6 period of time after July 3rd, 2007 when the  
 7 agreement was signed where there was quiet between  
 8 the parties before the negotiations resumed?  
 9 A. No, actually a month later --  
 10 MS. GREENBERG: I'm going to object to form.  
 11 Go ahead.  
 12 A. About a month after the contract was signed  
 13 was the first renegotiation.  
 14 Q. Tell me what you recall about that?  
 15 A. There was some calculation as far as cash  
 16 flow that Dr. Cornfeld renegotiated.  
 17 Q. Does this relate to the modified rent  
 18 payments that the tenants were required to pay?  
 19 A. It referred to the cash flow rent payments  
 20 that we were paying, yes.  
 21 Q. And tell me what you recall, what was this  
 22 recalculation?  
 23 A. He basically said that, oh, I made a  
 24 mistake and this is not what I meant and it's not  
 25 fair and can we do it this way, whatever it was.

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1 Q. You don't recall the substance --  
 2 A. It had to do with something with tax and  
 3 insurance payments.  
 4 THE WITNESS: Right? What was it?  
 5 Q. He doesn't get to answer at the moment.  
 6 A. But I wanted to verify it was tax and  
 7 insurance payments.  
 8 MS. GREENBERG: All right, Allen.  
 9 Q. Did it have anything to do with back rent  
 10 payments?  
 11 A. No, sir.  
 12 Q. There was a period of time leading up to  
 13 the signing of the Purchase and Sale Agreement where  
 14 none of the tenants were paying any rent to the  
 15 landlord, isn't that right?  
 16 A. No, there was no rent payments.  
 17 Q. So, between November of 2006 and July of  
 18 2007, none of the tenants under the leases of the  
 19 four properties were paying rent to the landlord,  
 20 isn't that right?  
 21 A. I don't know.  
 22 Q. Who would know that on your side, who would  
 23 know that?  
 24 A. Probably Judith Crook.  
 25 Q. And so, does it refresh your recollection

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1 that perhaps this conversation that you say occurred  
 2 about a month after the Purchase and Sale Agreement  
 3 had been signed related to your position that the  
 4 rent, the seven months of rent leading up to the  
 5 agreement that had not been paid had been waived and  
 6 Dr. Cornfeld was arguing no, he never agreed to waive  
 7 seven months of rent?  
 8 MS. GREENBERG: Object to form.  
 9 Q. Does that refresh your recollection as to  
 10 what you guys were talking about a month after?  
 11 A. Absolutely not.  
 12 Q. So the best of your recollection, this  
 13 recalculation that you are referring to that occurred  
 14 about a month afterwards related to taxes and  
 15 insurance, is that right?  
 16 A. No, it related to defining what cash flow  
 17 was.  
 18 Q. Was there some disagreement about whether  
 19 taxes and insurance should be part of the calculation  
 20 for determining what cash flow was?  
 21 A. That's correct.  
 22 Q. Do you know whether the tenants were  
 23 required to escrow money for taxes and insurance?  
 24 A. If we were required to -- I don't  
 25 remember.

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1 Q. I asked the question. Do you know whether  
 2 they were required to escrow payments for taxes and  
 3 insurance?  
 4 A. I don't remember.  
 5 Q. And so what was the result of this  
 6 recalculation or conversation that you had about a  
 7 month afterwards?  
 8 A. Notwithstanding that a contract on its  
 9 basis agreed to our interpretation of what cash flow  
 10 is, I instructed my people to acquiesce to  
 11 Dr. Cornfeld and do what he asked.  
 12 Q. Do you recall what the effect of that was,  
 13 did that mean somebody had to pay more money?  
 14 A. It meant that we had to pay more money on a  
 15 monthly basis.  
 16 Q. And that was going forward from the date  
 17 the purchase and sale contract was signed?  
 18 A. That's correct.  
 19 Q. And once that was resolved, were there any  
 20 other discussions about -- in other words, according  
 21 to Moshe Lehrfield, he says that in December,  
 22 December 24th of 2007, there was a meeting and that  
 23 you introduced the idea of buying three properties  
 24 instead of four.  
 25 Earlier this morning, you told us that

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1 there were discussions about two properties and four  
2 properties, three properties. So, what I'm just  
3 trying to do is refresh your recollection to tell me  
4 when those discussions occurred.

5 Now, I think you've told me, am I correct,  
6 that those types of discussions occurred prior to the  
7 signing of the Purchase and Sale Agreement or only  
8 afterwards?

9 MS. GREENBERG: I'm going to instruct you  
10 not to answer that question. You've got to ask  
11 him a question. Don't characterize somebody  
12 else's deposition.

13 Q. Were there discussions leading up to the  
14 signing of the Purchase and Sale Agreement about how  
15 many properties you were going to acquire?

16 A. Yes.

17 Q. Were those discussions before the draft  
18 agreements were first circulated?

19 A. Yes.

20 Q. So, if that were true, would you agree  
21 there would be draft Purchase and Sale Agreements  
22 that indicated an acquisition of less than all four  
23 properties?

24 MS. GREENBERG: Object to form.

25 A. No.

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1 Q. Why?

2 A. Because they were before the drafts.

3 Q. So, once -- okay. So once the drafts  
4 started to circulate?

5 A. No. Once we understood what Dr. Cornfeld  
6 wanted, that's when the drafts started circulating.

7 Q. So, initially, I'm just trying to  
8 understand the evolution of this, Carib and  
9 Cutlerwood needed significant capital improvements  
10 and that you felt you needed to own those properties  
11 in order to execute on those capital repairs,  
12 correct?

13 A. Yes.

14 Q. And then you told me that Shady also needed  
15 a complete rehab so that was the same analysis,  
16 correct?

17 A. Yes.

18 Q. Then I asked about Palm Gardens and I asked  
19 you what was your thinking for acquiring Palm Gardens  
20 and that's when you started telling me there were  
21 discussions about how many properties you were going  
22 to acquire.

23 I'm just trying to figure out was your goal  
24 from the beginning of these negotiations, to acquire  
25 all four?

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1 A. Not necessarily.

2 Q. What was your thinking?

3 A. My thinking was that there was an immediate  
4 need for those two and then we would see how we would  
5 work with Shady and then eventually get the Palm.

6 Q. So, if I understand what you are saying, is  
7 that the very genesis of the discussions were you  
8 wanted to acquire Carib and Cutlerwood, is that  
9 correct?

10 A. That was the immediate need.

11 MS. GREENBERG: Just for the record, when  
12 you say you, I assume you are saying GFI?

13 MR. ZEMEL: Yeah. He's the 1.310(b)(6) rep.

14 MS. GREENBERG: I just wanted to clarify for  
15 the record.

16 Q. Did you first approach Dr. Cornfeld with  
17 buying the Carib and Cutlerwood properties in person,  
18 do you recall?

19 A. Yes.

20 Q. Do you recall where you were?

21 A. I don't. Backtrack that, I don't remember  
22 if it was in person or not.

23 Q. And so, can you just tell me the evolution  
24 then, how did the immediate need of acquiring the two  
25 properties ultimately end up in a contract to buy all

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1 four that was signed in July of 2007?

2 A. We were putting in a lot of money.

3 Unfortunately, the properties got damaged in the  
4 hurricane and there was extensive damage and the age  
5 of the properties and we kept on putting money in and  
6 money in and money in and Dr. Cornfeld was aware of  
7 it. It was his insurance policy.

8 There was a lot of things that weren't  
9 covered in the insurance policy which we thought were  
10 covered because it was his policy, it was part of his  
11 master. And, unfortunately, we weren't covered for a  
12 lot of the wind damage and there's an extensive money  
13 going back constantly into the properties.

14 Q. You're referring to Carib and Cutlerwood,  
15 correct?

16 A. And, Palm, and -- yeah, and Palm as well.  
17 And I said to him one day, I said this is crazy,  
18 we're doing things piecemeal and we fixed this leak  
19 and the next piece of the pipe goes out. Elevators  
20 and things were going haywire.

21 I mean insurance went from \$150 a door to  
22 \$1,100 a door for the property. At the same time,  
23 real property taxes which are assessed based upon  
24 valuation because of the conversion craze that was  
25 going on, the property taxes went up quadruple and

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1 with the repairs with the hurricane and everything  
2 going on at the same time, there was no other way to  
3 deal with these things rather than go out there and  
4 rehab the property and bring it up to date and bring  
5 it under code.

6 We were getting violations. Every Monday  
7 and Thursday, there was a different violation.

8 Elevator, electric upgrade, fire department recalls,  
9 200,000 here, 150,000 here and it was ridiculous.

10 And he agreed that, yeah, we got to rehab,  
11 you got to rehab. As I did more and more research and  
12 looking into how you can economically do this, came  
13 to the realization that you can't do it under a lease  
14 because nobody would lend us money under a leasehold  
15 and we had to have the acquisition.

16 Other than that, I had a great relationship  
17 with him. There was no reason -- he was understanding  
18 and I was understanding for his needs. There was  
19 full cooperation. You know, he laughed, and I said  
20 you want it back and he said I haven't been here for  
21 20 years and I'm not coming there now, take care of  
22 it.

23 So, I even did him a favor when it came to  
24 Shady. I never wanted Shady and he begged me to take  
25 Shady. He says, please do me a favor, it's my only

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1 one, take it off my hand. We were contemplating  
2 buying in Tampa. And so I said, okay, we'll take it.

3 Just because of the conversion craze, we  
4 ended up not buying anything because everything was  
5 off the wall and we're not converters. That's not  
6 what we do for a living.

7 The only question was what and when and  
8 where, but the order of business was Carib and  
9 Cutler. That was the first order of business. Every  
10 Monday and Thursday, Cutler is a Section 8 property,  
11 and we were getting stop payments.

12 MS. GREENBERG: Okay. I think we answered  
13 the question.

14 A. I'm giving him the whole story.

15 MS. GREENBERG: No. Okay. I would instruct  
16 you to only answer the questions that are posed  
17 to you. You answered the question. Go ahead.  
18 Ask him a question.

19 Q. So, I understand that. I totally get you  
20 on that.

21 A. I don't think you did understand it.

22 Q. No, I don't understand. That's why I'm  
23 trying to find out from you.

24 A. Okay.

25 Q. So now I understand how Shady got into this

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1 which I know. By the way, when you said that  
2 Dr. Cornfeld told you it was his last one or his only  
3 one meaning his -- what did you mean by that?

4 A. His only multifamily property.

5 Q. How did Palm Gardens get into the mix of  
6 you wishing to buy that property?

7 A. Palm Gardens had other issues. They had  
8 elevator issues, Palm Gardens had parking issues. It  
9 was complicated. It also needed -- again, it was  
10 another property that there was a lot of deferred  
11 maintenance constantly.

12 And eventually it would need that and when  
13 we started having the discussions with Dr. Cornfeld,  
14 he said you know what, if I'm finishing and we're  
15 selling it, let me sell all of it and that's how it  
16 got -- that's how we got there.

17 Q. Okay.

18 A. I don't want to have anything to do with  
19 this, like this, I don't have to -- take it all off  
20 my head. I'm an old man. I want to relax. Did I  
21 say it right?

22 Q. Can you tell me then from the time that the  
23 first drafts were circulated that included all four  
24 properties, can you tell me what is the very first  
25 time that there was a discussion about GFI acquiring

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1 less than all four of those properties?

2 A. In December, if that's the date, when we  
3 were getting ready to close, I met with Dr. Cornfeld  
4 and had a discussion with him and I said is this the  
5 direction we want to go right now because he was  
6 worried about his tax basis, that he was going to pay  
7 a lot of tax because he had no basis in any of these  
8 properties and we started discussing different ways  
9 of being able to set it up to minimize his taxes.

10 Q. Was Moshe Lehrfield present for this  
11 meeting?

12 A. I don't recall.

13 Q. Was this at the Newport Hotel?

14 A. There was so many meetings, I don't recall  
15 which one. We had a lot of meetings at the Newport  
16 Hotel. All I remember was Dr. Cornfeld should have  
17 had the depositions there because the sun was shining  
18 right on me at the pool. And the coffee was lousy.

19 Q. So, tell me what happened in this --

20 A. Remember we had to go get coffee, we  
21 couldn't find a decent cup of coffee?

22 Q. Tell me what happened in this discussion in  
23 --

24 A. It wasn't -- there was a lot of discussions  
25 not only in December.

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1 Q. Let me be clear -- wait, stop. Let me be  
 2 clear.  
 3 I'm not asking about all discussions. I'm  
 4 just saying when is the first time that you  
 5 introduced the concept of buying less than all four  
 6 of the properties that you had contracted to  
 7 purchase?  
 8 MS. GREENBERG: Object to form as to who  
 9 introduced what.  
 10 A. I don't think it ever stopped being a  
 11 conversation because in Dr. Cornfeld's mind, it was  
 12 always that doubt whether -- do I sell all four, what  
 13 my tax basis is going to be, how much tax I'm going  
 14 to have to pay, how much am I going to be left with,  
 15 oh, the mortgages, am I giving financing.  
 16 We discussed a lot of things. One of the  
 17 things we discussed is him giving financing so he  
 18 should deal with it as an installment sale. There was  
 19 a thousand discussions.  
 20 Q. Let's try to come back to that. So  
 21 initially what you were envisioning -- when you began  
 22 the negotiations to acquire all four properties, it  
 23 was an all cash closing, correct?  
 24 A. That's correct.  
 25 Q. And you were anticipating a closing, I

1 A. I can pay off these mortgages any time,  
 2 they're my mortgages, nothing to do with you.  
 3 MS. GREENBERG: I'd like to take a break now  
 4 because --  
 5 MR. ZEMEL: Let me just get --  
 6 MS. GREENBERG: I think it's an appropriate  
 7 time.  
 8 MR. ZEMEL: I don't. Let me just get  
 9 through this, then we can break.  
 10 MS. GREENBERG: She told you she had to go  
 11 to the meter before.  
 12 MR. ZEMEL: She has got a few more minutes.  
 13 Let me just finish these line of questions.  
 14 Can I have that last question back?  
 15 (REPORTER READS BACK PREVIOUS QUESTION)  
 16 Q. So, Dr. Cornfeld told you in the  
 17 negotiation process that he could pay off these  
 18 mortgages at any time, is that what you are saying?  
 19 A. Yes.  
 20 Q. And how did it come to pass that you were  
 21 able to learn what the terms of the mortgages were  
 22 before the contract was signed?  
 23 MS. GREENBERG: I'm going to object to form.  
 24 A. I don't recall the exact, who said who to  
 25 what, but all of a sudden, it became a fact that in

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1 think you said on Dr. Cornfeld's schedule, correct?  
 2 A. That's correct.  
 3 Q. At some point in time, the concept of  
 4 obtaining the lender approvals on existing -- lender  
 5 approvals to assume certain loans was introduced into  
 6 the drafting process. Do you recall what prompted  
 7 that?  
 8 A. Yes.  
 9 Q. Tell me about that?  
 10 A. We found out that the mortgages had huge  
 11 penalties.  
 12 Q. Okay. How did you find that out?  
 13 A. Dr. Cornfeld.  
 14 Q. Dr. Cornfeld told you that, is that  
 15 correct?  
 16 A. Dr. Cornfeld finally, finally gave us  
 17 documents to review his mortgages.  
 18 Q. And who reviewed them on your behalf?  
 19 A. I don't recall.  
 20 Q. And so, tell me what you recall when you  
 21 learned what were in the mortgages?  
 22 A. I found out that what Dr. Cornfeld  
 23 represented to us wasn't accurate.  
 24 Q. Tell me what he had represented to you and  
 25 what was inaccurate?

1 order to pay off these mortgages, there was a \$2  
 2 million penalty.  
 3 Q. And what about -- and that's when the  
 4 lender approval aspects of the agreement were then  
 5 negotiated and put into the draft?  
 6 A. No, that's when the first negotiation --  
 7 not first but the 50th negotiations of our deal  
 8 started again because who is paying the prepayment  
 9 penalty.  
 10 Q. Okay. And tell me about those discussions?  
 11 A. Dr. Cornfeld said, well, you're getting a  
 12 benefit, you're going to take over the mortgages, so  
 13 why should I pay it.  
 14 So I said, Dr. Cornfeld, the mortgages are  
 15 50 or sometimes 40 percent of the priors, we were  
 16 going to take a much bigger mortgage, why would I  
 17 want to take these mortgages over and plus I'm  
 18 getting a construction loan. So, how are these  
 19 mortgages going to help me?  
 20 Don't worry, you'll figure it out. So, that  
 21 took time.  
 22 Q. Okay. And the agreement provides that to  
 23 the extent that there were prepayment penalties and  
 24 defeasance costs and things of that nature, that that  
 25 would be added to the purchase price, correct?

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1 A. No, then we got the other surprise.

2 Q. What was that surprise?

3 A. You know, all his mortgages, his all cash  
4 deal and everything that was going to close in 60  
5 days, 90 days, lo and behold, Dr. Cornfeld had a  
6 mortgage that has a lockout that can't even be  
7 prepaid.

8 This is when I begged him over and over and  
9 over again during the last five years, please, if you  
10 are taking a mortgage, talk to us, we have a whole  
11 mortgage department. No, these are people I know  
12 personally, these are buddies, these are friends,  
13 they'll do, they'll know, they'll be.

14 I said I hope you're not taking securitized  
15 loan. No, I have a relationship with the bank. It's  
16 my friend, my mortgage broker. We never were given  
17 any of the copies of the documents, never discussed  
18 it and I didn't want to push. And lo and behold, we  
19 have a lockout on Carib.

20 MS. GREENBERG: I have to take a break  
21 because I have an obligation.

22 MR. ZEMEL: Okay.

23 (LUNCHEON ADJOURNMENT)

24 Q. Would you take a look at Exhibit-1, the  
25 Purchase and Sale Agreement, and turn to paragraph or

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1 Section 11 entitled Loan Assumption?

2 Have you ever read that paragraph 11 before  
3 today?

4 A. No.

5 Q. Why don't you take a moment and review it  
6 so I can ask you some questions about it, please?

7 A. Okay.

8 Q. Does this paragraph 11, is this generally  
9 in accordance with your understanding of what the  
10 terms of the contract were?

11 A. I don't understand your question.

12 Q. Well, you had some working understanding as  
13 to what the terms of the agreement were, correct?

14 A. Yes.

15 Q. And is there anything in this Section 11  
16 that you just read which is inconsistent with what  
17 you thought the terms of the contract were?

18 A. No. It's what I thought the terms were.

19 Q. Now, before we broke for lunch, you were  
20 telling me that this Section 11 relating to the  
21 assumption of these loans was precipitated because  
22 you have learned that the loans had prepayment  
23 penalties and defeasance costs, correct?

24 A. Yes.

25 Q. And that you and Dr. Cornfeld prior to

1 signing the contract had negotiated who would be

2 responsible for paying the defeasance cost if you

3 elected to assume those loans, isn't that right?

4 A. Yes.

5 Q. Now, can you tell me under what conditions  
6 would GFI not have elected to assume those loans?

7 MS. GREENBERG: Object to form.

8 A. Under what conditions would we have not --  
9 the conditions that the lender might have come up  
10 with the amount of cash that was available, our 1031  
11 deal that we were doing simultaneously, how much cash  
12 that gave off.

13 There were two major 1031 deals that we  
14 were rolling this transaction into which the doctor  
15 was fully aware of. There was a deal in Jersey that  
16 we sold and a big deal in New York that we sold and  
17 there was a substantial amount of cash coming in from  
18 those.

19 Q. Okay.

20 A. So, there were a lot of factors of what's  
21 happening with interest rates in the market.

22 Q. Now, how did you learn prior to signing the  
23 agreement that there were prepayment penalties  
24 associated with some of these loans?

25 A. I don't recall exactly if Dr. Cornfeld

1 brought it to our attention or somebody picked it up,  
2 so I couldn't tell you.

3 But it became an issue after everything was  
4 agreed, after the terms were agreed and everything  
5 was agreed, all of a sudden this became a new issue.

6 Q. Okay. At any time between the time that you  
7 first learned about the prepayment penalties  
8 associated with these mortgages and the time that you  
9 signed the contract, did you or anyone on your behalf  
10 ask to see all of the mortgages so that you could see  
11 for yourselves or your team can see for themselves  
12 what the terms were?

13 A. I wouldn't have been party to that, so I  
14 don't know. It could have been -- I don't know. I  
15 really don't know.

16 We've asked many times and I don't know  
17 subsequently who reviewed, what reviewed, I don't  
18 know.

19 Q. Prior to the time that the contract was  
20 signed, did you tell Dr. Cornfeld that you had no  
21 idea that he had refinanced these properties since  
22 the time that you first signed leases on behalf of  
23 your tenant entities?

24 A. I don't know if I didn't know that he took  
25 mortgages because I assumed that we would have to

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1 sign estoppel agreements or subordination agreements,  
2 but I remember being surprised at the amount of money  
3 that he got as mortgages.

4 Q. Meaning what?

5 A. Meaning the extent of his financing. Like  
6 Carib, I didn't know that he had \$10 million mortgage  
7 on it.

8 Q. But in between the time that A & M Florida  
9 Properties, LLC first leased the Carib property and  
10 the time that GFI Acquisition signed this purchase  
11 and sale contract, you knew that the property had  
12 indeed been refinanced, isn't that right?

13 A. Yes, but I didn't know the extent of the  
14 mortgage or the terms of the mortgage because in the  
15 estoppel that we signed, those terms were not  
16 disclosed to us and, you know, in my conversations  
17 when I knew Dr. Cornfeld was looking to finance, I  
18 kept on telling him all the time, please make  
19 certain, watch what kind of mortgage.

20 No, don't worry, I can do, I can be, these  
21 are my friends, I know, pay it off any time, it's my  
22 personal loans, don't worry about it. I said, Doctor,  
23 please don't get -- and I said if you need help, I  
24 have a finance team, they are available to you.

25 Q. Let me make sure I understand what your

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1 testimony is.

2 Is it true that as of the time that you  
3 signed the Purchase and Sale Agreement in July of  
4 2007, you knew that the Carib Villas property had  
5 been refinanced but you just didn't know what the  
6 terms of the refinancing were?

7 A. I did not know at the time that I signed  
8 this contract that not only was -- about the  
9 prepayment penalties, I knew when I signed the  
10 contract. But I did not know that there was a  
11 lockout, that we couldn't even prepay if we wanted  
12 to. The term in the contract allowed for an option  
13 of prepayment.

14 What we didn't know and I don't think even  
15 Dr. Cornfeld knew, that there was a complete lockout.  
16 You were not able to pay this loan off even if you  
17 wanted to and even if you paid the penalty. Is that  
18 correct?

19 Q. Let me ask you -- take a look at the  
20 complaint which is this Exhibit-2 in front of you.

21 Now, the complaint is roughly 24 pages and  
22 the rest are the exhibits. If you want to separate  
23 the complaint from the exhibits, it might be easier  
24 for you.

25 Let me ask you to take a look at paragraph

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1 18 of the complaint? Now paragraph 18, if you see it  
2 in the second sentence says, "Subsequently, and  
3 without the knowledge or approval of A & M Land Trust  
4 number 61530 encumbered Carib Villas with a new  
5 mortgage with Wachovia Bank in the principal amount  
6 of \$10,369,000, which included a lockout period in  
7 which the loan could not be prepaid, after which  
8 period the payoff of the loan required payment of a  
9 prohibitive prepayment penalty."

10 Do you see that?

11 A. Yes.

12 Q. Is that a true statement?

13 A. Yes.

14 Q. The part that I want to make sure I'm clear  
15 on is you signed a subordination agreement for this  
16 precise financing, isn't that correct?

17 A. Yes.

18 Q. So, you knew that the Carib property had  
19 been refinanced long before you entered into any  
20 negotiations with the seller to buy Carib Villas,  
21 isn't that right?

22 A. Yes.

23 Q. So, what you're saying that you did not  
24 know prior to the time you entered into the  
25 negotiations with the seller to buy Carib Villas is

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1 what the specific terms of the refinancing was, is  
2 that correct?

3 A. Not only the terms but the conditions which  
4 affected us.

5 Q. Okay.

6 A. By having a reserve, not even a reserve but  
7 having work requirements which our lease subordinated  
8 to that loan and undertaking to do certain work which  
9 he never disclosed to us was part of his requirement  
10 and never disclosing to us that there was work  
11 requirements done and never disclosing to us that  
12 there was a lockout and never disclosing to us about  
13 the prepayment penalty and never disclosing to us the  
14 amount of his loan.

15 Q. Let me ask you to look at -- did I give you  
16 the other exhibit? Let me ask you to look at what  
17 was marked as Exhibit-3 to your deposition?

18 A. What's Exhibit-3?

19 Q. Why don't you put a rubber band around  
20 Exhibit-2.

21 Let me show you what's been marked as  
22 Exhibit-3 which is Defendants' Verified Motion to  
23 Strike and/Or Motion to Dismiss.

24 Have you seen this document before?

25 A. No.

<p style="text-align: right;">Page 85</p> <p>1 Q. Let me ask you, if you would, to please 2 turn to Exhibit-C of the defendants' verified motion 3 to strike? 4 A. Yes. 5 Q. Exhibit-C is a document entitled 6 Subordination Non-Disturbance and Attornment 7 Agreement. 8 Mr. Gross, you've seen documents similar to 9 this before, have you not? 10 A. Probably. 11 Q. And what's your understanding as to why 12 tenants would be asked to sign a Subordination 13 Non-Disturbance and Attornment Agreement? 14 A. Because our lease lien is a prior lien to 15 the bank mortgage. 16 Q. Yes. And ordinarily, would a tenant have 17 some reason to be concerned about what a refinancing 18 -- what effects refinancing might have on the 19 tenant's lease? 20 A. Yes. 21 Q. And who would have reviewed this document, 22 Exhibit-C, to the verified motion prior to it being 23 executed? 24 A. My attorney. 25 Q. Which attorney is that?</p>	<p style="text-align: right;">Page 87</p> <p>1 advised that -- 2 MS. GREENBERG: I'm going to instruct you 3 not to discuss your conversations with your 4 counsel. 5 And can you repeat the question? 6 (REPORTER READS BACK PREVIOUS QUESTION) 7 MR. ZEMEL: You're instructing him not to 8 answer? 9 MS. GREENBERG: No, not at all. I'm just 10 instructing him not to discuss conversations he 11 had with his counsel. 12 MR. ZEMEL: Well, if that's the answer to 13 the question, then -- 14 MS. GREENBERG: No. He started to say I was 15 advised by my counsel. 16 The question was -- that was the question. 17 The question is did somebody look at it, yes or 18 no? 19 A. Did somebody look at the mortgage? 20 MS. GREENBERG: Read the question back. 21 (REPORTER READS BACK PREVIOUS QUESTION) 22 A. Nobody reviewed it. 23 Q. And do you know why nobody reviewed the 24 terms of the mortgage refinancing at or about the 25 time that A &amp; M Florida Properties II executed the</p>
<p style="text-align: right;">Page 86</p> <p>1 A. Moshe Lehrfield. 2 Q. Now if you turn to page five of Exhibit-C? 3 A. Yes. 4 Q. Under where it says tenant, do you see 5 where it says A &amp; M Florida Properties II, LLC? Do 6 you see that? 7 A. Yes. 8 Q. Whose signature is that? 9 A. Edith Gross. 10 Q. You recognize her signature? 11 A. Her signature? 12 Q. Yes. 13 A. Yes, I do. 14 Q. Was Edith Gross authorized to sign this 15 document? 16 A. Yes, she was. 17 Q. And it says title is sole manager. Was 18 Edith Gross the sole manager of A &amp; M Florida 19 Properties II, LLC at the time this was signed? 20 A. Yes. 21 Q. Do you know whether or not you or anyone on 22 behalf reviewed the terms of the mortgage and the 23 refinancing in or about September of 2006 when this 24 was signed? 25 A. Under the terms of our lease, Mr. Lehrfield</p>	<p style="text-align: right;">Page 88</p> <p>1 Subordination, Non-Disturbance and Attornment 2 Agreement. 3 A. The lease did not provide for right of 4 review. 5 Q. Okay. Did you ask the landlord to review 6 the terms of the refinancing? 7 A. No. 8 Q. And what is the source of your information 9 that the lease did not permit the tenant to review 10 the terms of the refinancing? 11 A. My attorney advised me. 12 Q. Let me ask you to please turn to Exhibit-D 13 of the verified motion to strike. And if you turn to 14 page five of this document which is the 15 Subordination, Non-Disturbance and Attornment 16 Agreement dated April of 2006, is that your signature 17 that appears on behalf of A &amp; M Florida Properties, 18 LLC? 19 A. Yes, it is. 20 Q. And were you authorized to execute this on 21 behalf of A &amp; M Florida Properties? 22 A. Yes, I was. 23 Q. And at the time that -- 24 A. My wife gave me permission. 25 Q. At the time that you executed this</p>

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1 Subordination, Non-Disturbance and Attornment  
 2 Agreement, did you or anyone on your behalf ask or  
 3 review the terms of the refinancing?  
 4 A. No, I did not.  
 5 Q. And the reasons are the same as you gave us  
 6 before?  
 7 A. That's correct.  
 8 Q. Now, my question would be so that you  
 9 understood that when you were negotiating to buy  
 10 these four properties, that there had been  
 11 refinancing on two of these four properties, correct?  
 12 A. Yes.  
 13 Q. And what you're saying is, is that during  
 14 the course of those negotiations, you or anyone on  
 15 your behalf failed to ask Dr. Cornfeld what the  
 16 specific terms were of the mortgages relating to the  
 17 four properties?  
 18 MS. GREENBERG: I'm sorry, could you read  
 19 that question back?  
 20 (REPORTER READS BACK PREVIOUS QUESTION)  
 21 MS. GREENBERG: Negotiations of what?  
 22 MR. ZEMEL: Well, let me try it differently  
 23 then.  
 24 Q. At any time prior to the execution of the  
 25 Purchase and Sale Agreement, did you or anyone on

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1 your behalf request to see what the mortgages and the  
 2 terms of the mortgages were as it related to each of  
 3 these four properties?  
 4 MS. GREENBERG: Object to form.  
 5 A. During the negotiations, we were always  
 6 assured and even after the execution of these  
 7 documents by Dr. Cornfeld that I can pay him off any  
 8 time I want to.  
 9 They're my mortgages, nothing to do with  
 10 you. If I don't pay them, I'm personally responsible,  
 11 why are you worried? It's my responsibility, my  
 12 responsibility, my responsibility. And all of a  
 13 sudden, we found out when we asked him to provide us  
 14 with a schedule of the mortgages, the terms, that's  
 15 when we found out about the prepayment penalty.  
 16 It is only after we started making the  
 17 applications for the assumption and we started  
 18 digging in deeper into the loans, if we're going to  
 19 assume or not going to assume, pay off or not pay off  
 20 that we found out that Carib could not even be paid  
 21 off if we wanted to.  
 22 Q. So, at the time that you signed the  
 23 Purchase and Sale Agreement, had you or anyone on  
 24 your behalf actually seen the notes and mortgages  
 25 with respect to the four properties?

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1 MS. GREENBERG: Object to form.  
 2 A. No.  
 3 Q. If I understand your testimony, prior to  
 4 the time that you signed the Purchase and Sale  
 5 Agreement, you were surprised to learn that one or  
 6 more of these mortgages had prepayment penalties  
 7 which you thought was inconsistent with  
 8 representations made by Dr. Cornfeld, correct?  
 9 A. Finish your question.  
 10 Q. I did.  
 11 MS. GREENBERG: Why don't you read it back.  
 12 A. Read it back. I thought you were, like  
 13 some of your questions, you know, that you were  
 14 leading up to somewhere but then the road stopped.  
 15 It was like the bridge to nowhere.  
 16 Q. That's the left hand.  
 17 (REPORTER READS BACK PREVIOUS QUESTION)  
 18 A. Yes.  
 19 Q. And after you learned that representations  
 20 made to you by Dr. Cornfeld were inconsistent with  
 21 the mortgage documents, did you or anyone on your  
 22 behalf review all of the mortgage documents prior to  
 23 the time the Purchase and Sale Agreement was  
 24 executed?  
 25 MS. GREENBERG: Can you read back that

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1 question?  
 2 (REPORTER READS BACK PREVIOUS QUESTION)  
 3 MS. GREENBERG: That's a mischaracterization  
 4 of his testimony he said he looked at a  
 5 schedule. He didn't say he looked at the  
 6 document.  
 7 Q. Answer my question, please. You have to  
 8 answer.  
 9 MS. GREENBERG: I'm objecting. I have  
 10 objected.  
 11 A. I looked at the schedule and I did not  
 12 review the mortgage documents because I assumed that  
 13 Dr. Cornfeld's people reviewed the documents and the  
 14 schedule was accurate.  
 15 So the only thing was a question of money  
 16 which was the surprise of what the prepayment penalty  
 17 was.  
 18 Q. These aren't the trick questions. Those are  
 19 later. I'm just trying to get very simple  
 20 information.  
 21 A. I thought we passed the trick questions  
 22 already.  
 23 Q. No, they're coming.  
 24 MS. GREENBERG: The question just doesn't  
 25 make any sense.

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1 Q. Is it a fair statement that prior to the  
2 time that you signed the Purchase and Sale Agreement,  
3 you learned that the terms of the notes and mortgages  
4 underlying Carib Villas was such that it had a  
5 prepayment penalty, right?

6 I'll try it again.

7 MS. GREENBERG: Object to form.

8 Q. I'll try plain English. I can try plain  
9 English.

10 A. How about Yiddish?

11 Q. As I understand your testimony so far,  
12 originally this was going to be an all cash deal, a  
13 fairly quick closing but at some point along the  
14 line, you learned that there were mortgages on the  
15 property that had prepayment penalties which is the  
16 genesis of Section 11 of the contract.

17 Is that a fair statement so far?

18 MS. GREENBERG: Object to form.

19 A. Yes.

20 Q. Okay. The reason that Section 11 relating  
21 to loan approvals was injected into the mix of the  
22 negotiations because you learned prior to signing the  
23 Purchase and Sale Agreement that the one or more of  
24 these loans had prepayment penalties?

25 A. Correct.

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1 Q. And when you learned that one or more of  
2 these loans had prepayment penalties, that was  
3 inconsistent with what you had already understood,  
4 correct?

5 A. Yes.

6 Q. And the reason that there was an  
7 inconsistency is you felt that the terms of the  
8 mortgages were inconsistent with what Dr. Cornfeld  
9 had led you to believe up to that point?

10 A. No.

11 MS. GREENBERG: Object to form.

12 Q. Is that correct?

13 A. No, they were of no interest because he was  
14 going to pay them off. So why would I be interested  
15 what the terms of his loan was?

16 I had no interest in them. I had absolutely  
17 zero interest in what his loans were because the  
18 object was he was going to pay them off so why would  
19 I care. And I never even knew that they were  
20 assumable. For all I knew is they were private loans  
21 made to the doctor. I never seen, heard of who his  
22 financing was. They were personal loans because he's  
23 big Dr. Cornfeld.

24 Q. Obviously in his point in time, it did  
25 become your concern because Section 11 specifically

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1 provides if you were to elect to assume these loans,  
2 that the defeasance costs would be added to the  
3 purchase price and ultimately GFI would be paying  
4 them, correct?

5 A. Only when all of a sudden these fees, these  
6 prepayment penalties became our obligation on the  
7 52nd retrade.

8 Q. I understand.

9 A. You don't understand.

10 Q. This is before you signed the Purchase and  
11 Sale Agreement?

12 A. That's correct. And at that point because  
13 of our 1031s that we signed selling property based  
14 upon the reliance that we're going to buy these  
15 properties, we were so strung out that we had no  
16 other option but to go along with again being  
17 retraded.

18 It's very important that you understand  
19 because I know that you want to get to the truth.

20 Q. I'm trying to understand it.

21 A. And you have to understand everything that  
22 happened that went by this. Now, whether -- do I  
23 think or know whether Dr. Cornfeld knew about these  
24 prepayment penalties, I don't know. I really don't  
25 know and those are the questions that I ask today,

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1 was this done deliberately or was it not done  
2 deliberately. Was it done deliberately not telling us  
3 that the Carib Villas bank had a whole host of  
4 repairs that had to be done on the property which  
5 were not contemplated on our lease?

6 Was it a whole host of things that he  
7 didn't let us know, that there wasn't even an ability  
8 to prepay even if you wanted to paying them a five  
9 million prepayment penalty, there was no ability.

10 MS. GREENBERG: Okay. There's no question  
11 on the table.

12 A. I'm very upset because where this is going  
13 is a crock, really a crock. We're incompetent for  
14 trusting a man that we've been doing business with  
15 for seven years? We're incompetent for not reviewing  
16 his documents?

17 If he said something, that was it. There  
18 was no need to review. If he said it's my loan, I'll  
19 take care of it, don't worry about it, it's not your  
20 headache --

21 Q. I don't want to argue with you.

22 A. You are arguing because you keep on going  
23 back, nobody reviewed it, what are we a bunch of  
24 idiots. No, we're not a bunch of idiots. We assumed  
25 a seasoned real estate man who is doing this, who is

<p style="text-align: right;">Page 97</p> <p>1 running a three, \$400 million empire building huge 2 hotels and everything else has the knowledge and when 3 he tells us a loan is no problem, it's his loan, 4 that's what we assumed. 5 Why would I think differently? Why would I 6 in my wildest dreams think anything he tells me is 7 not accurate? 8 Q. Well, you've already told me that you 9 learned that one of the things that he told you 10 turned out to be inaccurate which is that there were 11 prepayment penalties involved, correct? 12 A. Yeah. 13 Q. And you learned that before you signed the 14 Purchase and Sale Agreement, correct? 15 A. Correct. 16 Q. So you knew at the time that you signed the 17 Purchase and Sale Agreement that Dr. Cornfeld didn't 18 always give you accurate information, isn't that 19 right? 20 A. No, sir. 21 Q. When you learned that there were prepayment 22 penalties, did you or anyone on your behalf look at 23 the note or mortgage terms to determine how much the 24 prepayment penalties were? 25 A. No, because he gave us the numbers, he</p>	<p style="text-align: right;">Page 99</p> <p>1 MR. ZEMEL: Gentlemen, let's move on. 2 THE WITNESS: By the way, you should know 3 because you said something to me in the bathroom 4 about your check, your money was deposited, 5 \$299,000 was deposited into court pursuant to 6 what your lawyer wanted. 7 MR. CORNFELD: You think I asked you that? 8 THE WITNESS: Is he your lawyer? He asked 9 for that. That's where your money is, in the 10 court as your lawyer requested. 11 So I hope your lawyer makes your mortgage 12 payments. 13 MR. ZEMEL: Gentlemen, can we move on? 14 THE WITNESS: That's what you wanted. You 15 got what you wanted. 16 MR. ZEMEL: Guys. 17 THE WITNESS: That's what he wanted. He 18 wanted it in the court, not in your pocket. 19 Q. He asked me a question in the bathroom. I 20 forgot to give him the answer because -- 21 MR. CORNFELD: Are you willing to put it in 22 my pocket? 23 THE WITNESS: You put it in the hand of your 24 lawyer. That's where you put everything. 25 That's where this is going. Just like the letter</p>
<p style="text-align: right;">Page 98</p> <p>1 called up the lender. It was his lender. I wasn't 2 privy to be able to call up the lender. I didn't even 3 know who the lenders were. 4 Q. I'm just -- 5 A. I didn't know who the services were. We 6 never got notice who the services are. He called up, 7 he found out and he got back, oi vay, we got a 8 problem. We got these monies, I didn't even know. I 9 didn't even know. What should we do now? Allen, what 10 should we do now? 11 It became "our". I said, Dr. Cornfeld, 12 what do you mean what should we do now? For years 13 you've been telling me these are my mortgages, it's 14 my problem, it's my obligation and now it became we. 15 Who is we, kemosabi? 16 THE WITNESS: You can say it loud, 17 Dr. Cornfeld. Say it loud. Say it loud. You 18 don't have to whisper. You can say it loud. If 19 I'm not saying the truth, say it. 20 MR. ZEMEL: You want me to ask him if he'll 21 agree to that? 22 THE WITNESS: Go ahead, ask me. What are 23 you afraid to ask me? All of a sudden, you're 24 afraid to ask me. You know how to talk. You 25 don't need him talking for you.</p>	<p style="text-align: right;">Page 100</p> <p>1 started and then all of a sudden, the lawsuit. 2 That's where you put it, that's the driver of 3 the bus. Not you, you're not driving. 4 When you decide what you want, that's when 5 you tell him. Until now, he doesn't know what 6 you want. I don't know what you want. Elaine 7 doesn't know what you want. I don't think Judy 8 knows what you want. Nobody knows what you 9 want. 10 MR. CORNFELD: I don't think you know what 11 you want. 12 THE WITNESS: I don't think you know what 13 you want. 14 MR. ZEMEL: I'll just wait. 15 A. The only one who knows what you want, you 16 know you have to put money in your meter. 17 MR. ZEMEL: When you guys are ready to 18 resume the deposition, let me know. 19 A. I'm ready, bring it on. 20 Q. How soon after you signed the Purchase and 21 Sale Agreement did GFI first apply to assume any of 22 the loans? 23 A. I don't know. 24 Q. Who would know that? 25 A. Dr. Cornfeld.</p>

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1 Q. And why would he know that?  
 2 A. Because he was in touch constantly.  
 3 Q. Would that request to assume the loans have  
 4 been done in writing?  
 5 A. I don't know.  
 6 Q. Would someone on your staff have handled  
 7 the loan assumptions that the banks would have  
 8 required?  
 9 A. Yes.  
 10 Q. Who would have been responsible for  
 11 handling that?  
 12 A. I think Dr. Cornfeld was in charge of  
 13 getting us the assumption papers, there was an  
 14 application.  
 15 Q. Okay. And at some point in time, did you or  
 16 anyone on your behalf receive letters back from one  
 17 or more of the lenders setting forth what the  
 18 requirements would be for assuming the loans?  
 19 A. I don't know, I wasn't involved in that.  
 20 Q. Now you mentioned that it was only after  
 21 you had signed the Purchase and Sale Agreement that  
 22 you had learned about a lockout, is that correct?  
 23 A. Correct.  
 24 Q. Now, do you have any -- do you have an  
 25 understanding one way or another whether or not

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1 mortgages are recorded in the public record and  
 2 freely available to anyone who wants to look at them,  
 3 is that your understanding of how it works here in  
 4 Florida?  
 5 A. No, sir.  
 6 Q. What's your understanding about mortgages  
 7 being recorded and them being available for anyone to  
 8 review?  
 9 A. Mortgages could be recorded, notes are not  
 10 recorded.  
 11 Q. I didn't ask you about the notes.  
 12 A. You asked me if everything is recorded.  
 13 Q. I actual asked you just about the  
 14 mortgages.  
 15 A. Mortgages are recorded.  
 16 Q. So you could have looked at the mortgages  
 17 if you chose, correct? They are freely available in  
 18 the public records?  
 19 A. Again, mortgages wouldn't give me terms of  
 20 a deal.  
 21 Q. Why would it be important for you to know  
 22 what the terms of the deal were?  
 23 A. Interest rate, amount owed, where would you  
 24 find that?  
 25 Q. You tell me, where would you find it?

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1 A. In the note.  
 2 Q. So my question is did you or anyone on your  
 3 behalf, anyone on your behalf ever request to look at  
 4 any of the promissory notes relating to the mortgages  
 5 at issue in this case?  
 6 A. No, because the intention was to pay off  
 7 these loans.  
 8 Q. Then why was there a six-month period built  
 9 into this contract to allow GFI the time to assume  
 10 these loans if it chose to?  
 11 A. Because in the event, in the event that we  
 12 couldn't for any reasons, our 1031s wouldn't close  
 13 and we wanted, needed more time, we would assume the  
 14 existing loans and proceed to a closing and pay them  
 15 off later.  
 16 Q. At the time that you signed the Purchase  
 17 and Sale Agreement, were you anticipating a close in  
 18 30 to 60 days?  
 19 A. No, because once we found out that there  
 20 were assumption issues and there were prepayment  
 21 penalties and later on we found out it couldn't be  
 22 paid off at all, that threw everything into a tiz.  
 23 Q. Don't go there yet. At the time that you  
 24 signed --  
 25 A. I'm there.

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1 Q. At the time, I want to know what your  
 2 thinking was at the time you signed the document.  
 3 At the time you signed the Purchase and  
 4 Sale Agreement, what timeframe were you thinking that  
 5 GFI would be ready, willing and able to close the  
 6 transaction?  
 7 A. I couldn't tell you because we were waiting  
 8 to see what time our 1031 monies would close.  
 9 Q. Okay. And so closing this transaction, the  
 10 subject of this lawsuit, was subject to or contingent  
 11 upon closings of the 1031 exchanges in New York and  
 12 New Jersey that you mentioned?  
 13 A. It was not contingent.  
 14 Q. GFI Acquisition had the money available  
 15 from other sources other than the 1031?  
 16 A. Yes, sir.  
 17 Q. And is it your testimony that GFI could  
 18 have closed this transaction at any time after the --  
 19 A. Excuse me, what?  
 20 Q. At the time that you signed the Purchase  
 21 and Sale Agreement, did GFI have the financial  
 22 ability to close this transaction irrespective of  
 23 whether or not the 1031 exchanges closed?  
 24 MS. GREENBERG: Objection, asked and  
 25 answered.

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1 You could answer it.  
 2 A. Yes.  
 3 Q. And what were those other resources from  
 4 which GFI could have closed this transaction other  
 5 than the 1031 exchanges?  
 6 A. We had huge credit lines, we have banks  
 7 that lend us money besides our credit lines that we  
 8 have relationships with, we have cash in the bank.  
 9 Q. Did GFI Acquisition ever make a formal  
 10 application to any lender for the purchase money to  
 11 close this transaction?  
 12 A. Yes. I don't know formal but, yes, we did  
 13 speak to lenders.  
 14 Q. Was there ever a lender commitment or  
 15 lender approval to fund this transaction?  
 16 A. I don't know if it was commitment but we  
 17 did have a lender lined up.  
 18 Q. Who was the lender?  
 19 A. CIBC. In fact, there were two lenders, HSBC  
 20 because Carib -- there was a term sheet for that too.  
 21 I'm almost sure -- not Carib, Cutlerwood.  
 22 Q. Was there a mortgage on Cutlerwood?  
 23 A. No -- there was, but that was the only one  
 24 that he was able to prepay, so all his prepayment  
 25 mortgages he's able to prepay from four became one.

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1 Q. Now, as you saw in Section 11 of the  
 2 contract that GFI had --  
 3 A. By the way, Mr. Zemel, this prepayment,  
 4 right, the prepayment penalties also evolved.  
 5 Q. In what way?  
 6 A. It also evolved. It was first one of them,  
 7 I found out one, then two. And then it evolved. It  
 8 never happened, all of it.  
 9 So everything was an evolutionary process.  
 10 Q. Then, why didn't you ask someone on your  
 11 team to physically go down and get copies of the  
 12 notes so you could see exactly what you were dealing  
 13 with?  
 14 A. Because at that time, all we thought about  
 15 is that it's only a question of money and the  
 16 question was if the deal cost us this much, our  
 17 taxable -- we had a very serious 1031 that we have a  
 18 huge profit in, we had a \$20 million profit in a deal  
 19 that we sold and it was a \$10 million tax savings to  
 20 get this deal done.  
 21 So if I'm spending another million \$2  
 22 million, so be it. I had no choice. We were long  
 23 foregone, committed. The other deal was a hard deal.  
 24 We knew it was going to close. The buyers were  
 25 Apollo, so there was no ifs, ands and butts about it

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1 happening. The only question was when it was going  
 2 to close.  
 3 Q. Prior to the time that you had signed the  
 4 Purchase and Sale Agreement, had you ever requested  
 5 any information from Dr. Cornfeld or anyone on his  
 6 behalf that did not provide the information to you?  
 7 A. Yes.  
 8 Q. Tell me about that?  
 9 A. The mortgages.  
 10 Q. You asked to see the mortgages?  
 11 A. I asked Dr. Cornfeld, Dr. Cornfeld, please  
 12 go sit down -- yeah, I know, I know, I know these  
 13 things. I did it, I know.  
 14 Q. I just want to be clear. You asked  
 15 Dr. Cornfeld?  
 16 A. I said, Dr. Cornfeld, can you pay off these  
 17 loans? Is there any problem? Is it securitized?  
 18 No, I didn't do a securitized loan.  
 19 Q. I understand that.  
 20 A. No, you don't understand. You just asked  
 21 me. I asked him specifically, Dr. Cornfeld, are  
 22 these securitized loans?  
 23 He said, no, it's not securitized. It's my  
 24 personal loans, my banks.  
 25 Q. What you're telling me is he gave you

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1 inaccurate information. That isn't my question.  
 2 My question is did you ever ask  
 3 Dr. Cornfeld to provide you with any documents prior  
 4 to July 3rd, 2007 that he did not provide you or your  
 5 organization with?  
 6 A. I would really have to think about that  
 7 question.  
 8 Q. Okay.  
 9 A. I would really have to -- I'll have to get  
 10 back to you about that because, you know, there's  
 11 seven years of history. And, you know, I can answer  
 12 it one way, in my frame of mind, would I think, would  
 13 I ever think that he would intentionally withhold  
 14 information if that's your question? The answer is  
 15 no. In my mind, this was a gentleman.  
 16 So, do I think he knowingly, willfully did  
 17 a Hank Rodstein on me, would I think that? Not in my  
 18 wildest dreams. Do I think it now? I don't know.  
 19 That's what hurts me most because I don't know if he  
 20 knew about these prepayments or not.  
 21 Q. Can you explain to me --  
 22 A. Or if it was just a Columbo routine.  
 23 Q. Can you explain to me why it is that you  
 24 accused the defendant, AFTC, of misrepresenting the  
 25 cash flow and financials to their lenders?

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1 A. Could you repeat the question?  
 2 Q. Yeah. I mean I'm going from what you just  
 3 told me.  
 4 A. Could you repeat the question because I  
 5 want to answer it.  
 6 Q. Can you tell me why you accused Cornfeld of  
 7 misrepresenting the cash flow and financials to his  
 8 lender?  
 9 A. Okay. When -- during the course of  
 10 application of the lenders, there were certain  
 11 inconsistencies and the fact that the lender came  
 12 back and made a request for something to condition  
 13 the assumption which as a lender had no right to do  
 14 because it wasn't in the mortgage documents, the  
 15 mortgage document provided that the lender with  
 16 consent to an assumption, and it never had the right  
 17 to consent to an assumption and require that the new  
 18 borrower who was assuming agree to personal recourse  
 19 because the loan in and of itself was a non-recourse  
 20 loan.  
 21 And when a lender comes back and asks for  
 22 that, then there's a rotten fish in Denmark.  
 23 Q. Apparently I interrupted you.  
 24 A. No, no, go ahead.  
 25 Q. So, was A & M Florida Properties supplying

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1 financial data or financial information to the  
 2 landlord?  
 3 A. Yes.  
 4 Q. And as far as you know, wasn't that  
 5 information received from A & M Florida Properties  
 6 transmitted to the lender?  
 7 A. No. How would I know? I had no privity with  
 8 his lender.  
 9 Q. So, other than what you've told me, what is  
 10 the factual basis for your claim that Cornfeld was  
 11 misrepresenting the cash flow and financials to the  
 12 lender?  
 13 A. Being somebody that's in this business a  
 14 long time and by seeing what was happening and the  
 15 amount of loan that he was able to obtain and knowing  
 16 the actual cash flows of the property, I had serious  
 17 doubts that the accurate numbers were the ones that  
 18 were conveyed to the lender.  
 19 Q. What does that have to do with your claim  
 20 in this lawsuit?  
 21 A. What does that have to do?  
 22 Q. Yeah.  
 23 A. I subordinated my lease to a loan that in a  
 24 second can wipe me out like this. The lender can  
 25 foreclose in five seconds. Did you ever hear of bank

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1 fraud?  
 2 Q. The question is why is that an issue in  
 3 this lawsuit for a specific performance?  
 4 A. Because part of what we had to do was  
 5 assume a loan that was not accurate.  
 6 Q. That you were assuming that the loan wasn't  
 7 accurate?  
 8 A. Yeah.  
 9 Q. So, the allegation in the complaint is just  
 10 based upon your assumption, is that right?  
 11 A. More than just assumption and it could be  
 12 what Dr. Cornfeld's mortgage broker gave into the  
 13 lender, I don't know. Somebody gave lender numbers  
 14 that don't make sense.  
 15 Q. Were all of the financial statements that  
 16 the A & M Florida Properties tenant entity supplied  
 17 to the landlord true and accurate?  
 18 A. To the best of my knowledge. I didn't get  
 19 involved in that.  
 20 I have an accounting department that does  
 21 that.  
 22 Q. You also learned prior to the time that you  
 23 signed the Purchase and Sale Agreement that there  
 24 were certain capital reserve and repair requirements,  
 25 isn't that right?

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1 A. No, sir.  
 2 Q. You didn't know that before you signed the  
 3 Purchase and Sale Agreement?  
 4 A. No, sir.  
 5 Q. You -- when did you first learn about  
 6 that?  
 7 A. During the assumption when we applied for  
 8 the assumption of the loan.  
 9 Q. Would that have been before December 24th,  
 10 2007?  
 11 A. Yes, sir.  
 12 Q. What did you do about it when you learned  
 13 about these capital reserves and the repair  
 14 requirements?  
 15 A. What did I do about it?  
 16 Q. Yeah.  
 17 A. I asked Dr. Cornfeld what are these about?  
 18 He says don't worry, I'm very good with the lender.  
 19 You're doing work anyway, what's the problem?  
 20 Q. At any time -- well, if you go back and  
 21 look at paragraph 11, if you look at paragraph number  
 22 11, you see that GFI had a six-month period of time  
 23 where it could have terminated this contract, do you  
 24 see that?  
 25 A. Yes.

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1 Q. And if the contract was signed on July 3rd,  
2 2007, GFI would have had until approximately January  
3 3rd, 2008 within which to terminate this contract, is  
4 that correct?

5 A. Yes.

6 Q. At any time between July 7th -- July 3rd,  
7 2007 and the first week of January of 2008, did GFI  
8 ever say to the seller that it wanted to terminate  
9 this contract?

10 A. No, sir.

11 Q. During that same six-month period, did GFI  
12 ever ask the seller for a reduction in the purchase  
13 price?

14 A. I don't recall.

15 Q. Did GFI ask for reductions to account for  
16 these capital reserves or repair requirements?

17 A. I wouldn't know because most of the  
18 conversations were with other people in my office at  
19 that point.

20 Q. Can you tell me why didn't GFI Acquisition  
21 terminate this Purchase and Sale Agreement prior to  
22 the expiration of the six-month period?

23 A. Because we were so far gone with our 1031  
24 and we had such serious tax implications from our  
25 other transactions that there was no other choice. We

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1 had a \$10 million tax cost.

2 Q. Let me ask you to turn to paragraph 42 of  
3 the complaint. That's that document right there. In  
4 fact, why don't you put that back together, the  
5 verified motion?

6 Let me ask you to look at paragraph 42 of  
7 the complaint, please? Did you do that?

8 Did you read it?

9 A. Yes, I did.

10 Q. Do you have any personal knowledge with  
11 respect to the allegations set forth in paragraph 42?

12 MS. GREENBERG: Can I see it?

13 A. Excuse me?

14 MR. ZEMEL: Would you read it back for him  
15 please?

16 (REPORTER READS BACK PREVIOUS QUESTION)

17 MS. GREENBERG: Let's take a two minute  
18 break.

19 (SHORT BREAK)

20 Q. Paragraph 42, Mr. Gross, do you have any  
21 knowledge with respect to the allegations of  
22 paragraph 42?

23 A. Yes.

24 Q. What information do you have?

25 A. I know that after the hurricane, things got

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1 very, very bad. We had a tremendous amount of damage,  
2 properties of roofs and facades, windows, driveways,  
3 concrete, trees, landscaping, terraces, balconies, a  
4 lot of damage. And, unfortunately, we were not aware  
5 that Dr. Cornfeld's policy which we were all under  
6 did not provide us with adequate coverage to be able  
7 to sustain the damages that we had because of the  
8 hurricane and we were required to do the repairs, we  
9 had to do the repairs.

10 Otherwise, all the properties would have  
11 vacated. The tenants would have vacated and we were  
12 spending a lot of money on repairing the property and  
13 at that time as soon as that happened, insurance went  
14 to \$1,100 a unit which was just the insurance alone  
15 cost us over a million dollars more a year and then  
16 on top of that, real estate taxes quadrupled on top  
17 of that and conversations with Dr. Cornfeld, he was  
18 very well aware what was going on at the same time.

19 Q. There was a period of time that we got hit  
20 with four hurricanes back to back to back in '05. Is  
21 that the time period you are referring to?

22 A. '05 to -- '05 leading up to or going into  
23 '06. We didn't know the insurance company wasn't  
24 paying.

25 Q. And --

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1 A. Different claims we made and everything was  
2 being rejected.

3 Q. When you refer to the hurricane, are you  
4 talking about Wilma or a succession? Are we talking  
5 about a succession of hurricanes or you don't know?

6 A. I don't know, Wilma, Gus, Katrina, Andrew,  
7 names are names. All I know is the results.

8 Q. Was one of the issues with the insurance  
9 policy the deductible?

10 A. The issues were that the wind coverage, the  
11 requirement for certain value, valuation, up to a  
12 certain valuation wasn't a dollar amount, it was not  
13 only the deductible but it had to do with a  
14 percentage of valuation which took us completely by  
15 surprise and it was just a catastrophe.

16 Q. How many properties did GFI Capital  
17 Resources own or control in Florida other than these  
18 four properties at issue here?

19 A. I think three.

20 Q. 30?

21 A. Three or four.

22 Q. And where are they located?

23 A. One is in Plantation, one is in -- I can't  
24 remember the names.

25 Q. Just tell me if they are in South Florida?